Public Utilities

FORTNIGHTLY

April 24, 1947

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Pages with the Editors

THERE can be very little doubt now that the atom is here to stay. The latest edition of the telephone directory of our largest eastern cities shows dozens of enterprising concerns which feature the name "atom." These vary from the "Atomic Coin and Pinball Machine" to a rather intriguing line known as "Atomic Secret Beverage Formula" (a name which suggests something pretty powerful in the way of liquid refreshments).

WE happened to glance at this list the other day, musing on how easily our sophisticated civilization accommodates itself to the most awesome discovery perhaps in the history of mankind, and quickly reduces it to the casual reference of everyday commerce.

IF we were writing a history of our age, we would be sorely tempted to make a whimsical footnote to the discovery of atomic fission. It would be to the effect that within two years after the first atom bomb dropped on Hiroshima, somebody was doing business in one of our largest cities under the name of "Atomic Baby Laundry." *Sic transit gloria!*

© Harris & Ewing

C. W. KELLOGG

A. C. SPURR

ONE of the next marvels which may yet undergo such transformation into everyday usage is a rather paradoxical device which has only recently begun to peek out from the pages of popular media, such as Sunday newspaper supplements and digest magazines. It is the so-called "heat pump." It is a paradox because not only is it able to deliver heat apparently out of thin air, or water, or the earth itself, but also it apparently is a reversible process, so that the popular scientific writers are now conjuring up visions of the same household device heating our houses in the winter and cooling them in the summer. It is only to be expected there has been rather loose writing about this anomalous appliance.

BECAUSE the heat pump promises such interesting business possibilities in the utility field, we are glad to present as the opening article in this issue an understandable explanation of its operation from a quite responsible source. The author is none other than C. W. KELLOGG, who will be readily recalled for his ten years' tenure as president of the Edison Electric Institute. MR. KELLOGG, who retired from that post only last year and is now residing in Queen Anne, Maryland, also was for many years identified with the Stone & Webster organization, serving as president of its principal subsidiary, Engineers Public Service, from 1925 to 1934. Born in Philadelphia in 1880, MR. KELLOGG was a graduate of Massachusetts Insitute of Technology (BS, '02; MS, '03), joining the Stone & Webster organization shortly thereafter —in 1905.

* * * *

ANOTHER well-known figure in the public utility executive field who contributes to this issue is A. C. SPURR, president of the Monongahela Power Company, whose article begins on page 550. MR. SPURR was born in Valley City, North Dakota, and was educated at Yale (LLB, '10; AB, '13). He started in the utility business, following some railroad experience, as a traffic manager with the Pittsburgh Railways in 1920. He became vice president of the Wheeling Traction Company in 1925. He became assistant to the president of West Penn Electric Company in 1934, and assumed his present post in 1935.

* * * *

STILL another official from the public utility field is WALTER J. HERRMAN, whose article on the rôle of regulation in making utility investments attractive begins on page 536. MR HERRMAN came to his present post of rate analyst for the Commonwealth & Southern Corporation, New York city, from a somewhat similar position with General & Telephone Investments, Inc., with offices in Chicago. MR. HERRMAN is a graduate of the University of California (EE, '22). His first utility connection was with the Great Western Power Company of California, where he served as a valua-

WALTER J. HERRMAN

tion engineer until the city of San Francisco acquired the property. During the years 1937-1938 he served as a rate expert for the special telephone investigation of the Federal Communications Commission. He was the coauthor (with Dr. J. R. Foster of New York University and Barclay J. Sickler of the Bonneville Administration) of a study on the problem of the utility rate of return, which was published by the FCC in June, 1938.

* * * *

AMONG the important decisions preprinted from *Public Utilities Reports* in the back of this number, may be found the following:

AN application for authority to issue a note to finance the construction of electric extensions into territory involved in a controversy with another utility as to operating rights is denied by the New Jersey commission pending the establishment of territorial boundaries. (See page 97.)

THE Wisconsin commission determines the utility status of water-softening service furnished by a municipal water plant. (See page 102.)

THE next number of this magazine will be out May 8th.

The Editors

In This Issue

In Feature Articles

In Washington and the Utilities

In Exchange Calls and Gossip

In Financial News

In What Others Think

In The March of Events

In The Latest Utility Rulings

PREPRINTS FROM PUBLIC UTILITIES REPORTS
Various regulatory rulings by courts and commissions reported in full text, pages 97–128, from 67 PUR(NS)

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

EDITORIAL STATEMENT
The Wall Street Journal.

"We know of no short and easy road to perfect industrial peace. But something will be gained if we all stop talking economics in terms of hysterics."

HERBERT THATCHER
Associate counsel, American Federation of Labor.

"Government should not set itself up to determine for the parties what wages and conditions industry shall give or labor shall receive, except in relation to health and safety minimums."

ALFRED E. DRISCOLL
Governor of New Jersey.

"So long as the present Federal policy of treating the states as competitive centers of political power is continued, the states will be unable to give full support to national policies."

RAYMOND B. FOSDICK
President, Rockefeller Foundation.

"We are discovering the right things in the wrong order, which is another way of saying that we are learning how to control nature before we have learned how to control ourselves."

J. STROM THURMOND
Governor of South Carolina.

"Just as no man can rise above his character no state can rise above the character which her government possesses. With character in government go honesty and efficiency in government."

ROBERT E. WOOD
Chairman, Sears, Roebuck & Company.

"Businessmen must learn that too large a part of profits must not go into dividends. English capital made this mistake, and the results show in the general obsolescence of British industry."

CHARLES E. WILSON
President, General Motors Corporation.

"If labor monopolies are permitted on an industry-wide basis, employer cartels to them are thereby made inevitable and the product of this situation in the end will require state control of both."

ALBEN W. BARKLEY
U. S. Senator from Kentucky.

"Free enterprise in my mind is the concept that the channels of commerce should be kept free so that every man shall have an equal chance to be useful in the economic world regardless of his race, creed, color, or political persuasion."

EDITORIAL STATEMENT
The Journal of Commerce.

"High taxes are at all times a brake on the free enterprise system, to be removed at the earliest opportunity."

ROSWELL MAGILL
New York attorney.

"Congress would do well to heed the maxim that an income tax system will not work well with rates over 50 per cent."

EDITORIAL STATEMENT
Los Angeles Times.

"Picketing which blocks completely the entrance to a plant can hardly be called peaceful without stretching the English language all out of shape."

EARL BUNTING
President, National Association of Manufacturers.

" . . . the President's budget realistically is not a balanced budget at all. It is a proposal for continuation into the third postwar fiscal year of Federal deficit financing."

PHILIP W. PORRITT
Resident, Darien, Connecticut.

"With a third of the national income going to taxes, it is evident that a third of every wage earner's time, four months of the year, is spent working without pay for the government."

W. AVERELL HARRIMAN
Secretary of Commerce.

"The vitality of the American people was supreme in war. It opened higher vistas for our country. That vitality is our heritage. It can be effective in peace in developing a much fuller life for all our people, and in contributing to world prosperity."

E. G. GRACE
Chairman, Bethlehem Steel Corporation.

"More goods help to prevent inflation and reduce the high cost of living. Steady production means steady employment and good wages. In fact, steady production at a profit is the basis of security for stockholders, employees, the public, and government; without it there would be no company or employees."

WILLIAM L. HEARNE
Tax counsel, United States Steel Corporation.

"The question is not whether taxes represent costs which discourage business enterprise so much as whether or not the discouragement is so great that it might prove disastrous. In my opinion, the present structure, the incidence, and the weight of our taxes are such as to put us in great danger if continued more than a couple of years in a competitive economy."

EDWARD V. RICKENBACKER
President Eastern Air Lines, Inc.

"We have a right, in my opinion, to refuse room to those who would termite our economy and terminate our freedom. Under the guise of refugees, task forces of dissension have established beach heads along our eastern and western seaboards and they are now drilling their underground, undercover, and un-American invasion clear across the country from both fronts."

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THAT'S RIGHT . . . for a truck that will save you money, get a *"Job-Rated"* truck.

A *"Job-Rated"* truck is a truck that FITS your job—a truck in which every unit is engineered and *"Job-Rated"* for the size and kind of loads you carry.

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DODGE DIVISION OF CHRYSLER CORPORATION

ONLY DODGE BUILDS *"Job-Rated"* TRUCKS

DODGE

Fit the Job . . . Last Longer.!

XUM

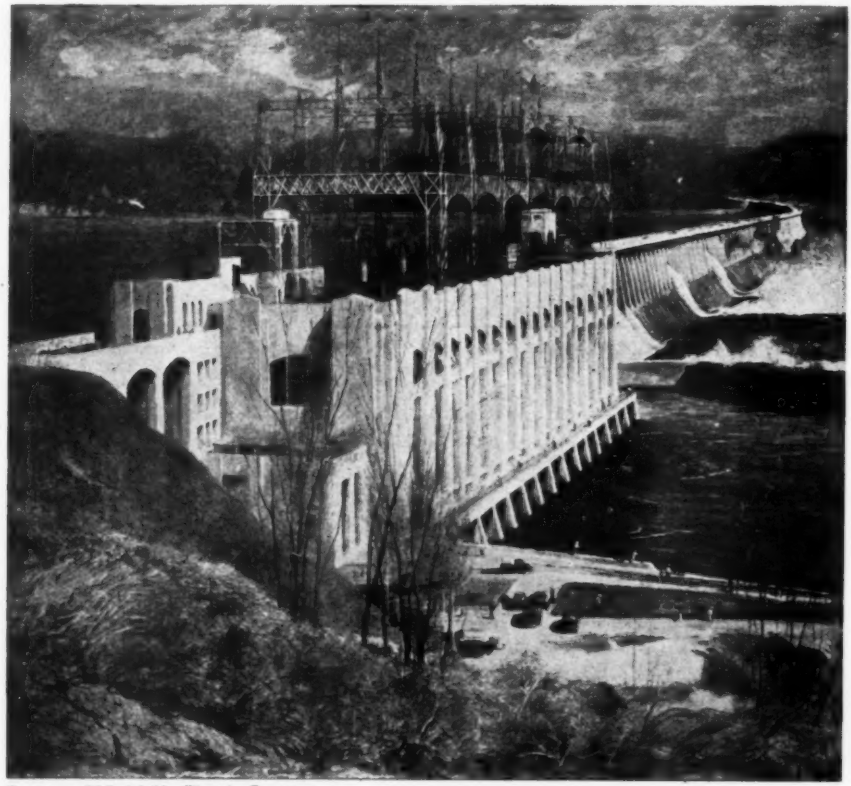
Utilities Almanack

April

24	Th	¶ *American Gas Association, Industrial and Commercial Gas Section, Commerical Gas School, will be held, Washington, D. C., May 12–16, 1947.*
25	F	¶ *Gas Meters Association of Florida-Georgia begins meeting, Boca Raton, Fla., 1947.*
26	Sa	¶ *American Water Works Association, Montana Section, ends meeting, Havre, Mont., 1947.*
27	S	¶ *Pennsylvania Independent Telephone Association will hold meeting, Reading, Pa., May 15, 16, 1947.*
28	M	¶ *U. S. Chamber of Commerce begins annual meeting, Washington, D. C., 1947.*
29	Tu	¶ *Indiana Gas Association will hold meeting, French Lick, Ind., May 15, 16, 1947.*
30	W	¶ *American Gas Association, Natural Gas Department, begins spring meeting, Chicago, Ill., 1947.*

May

1	Th	¶ *American Water Works Association, Pacific Northwest Section, will hold meeting, Victoria, B. C., May 15–17, 1947.*
2	F	¶ *National Rivers and Harbors Congress begins annual convention, Washington, D. C. 1947.*
3	Sa	¶ *Kansas Telephone Association meeting will be held, Topeka, Kan., May 16, 17, 1947.*
4	S	¶ *Pennsylvania Gas Association will hold convention, Wernersville, Pa., May 20–22, 1947.*
5	M	¶ *American Gas Association, Industrial and Commercial Gas Section, Industrial Gas School, begins session, Columbus, Ohio, 1947.*
6	Tu	¶ *Southwestern Gas Measurement Short Course begins, Norman, Okla., 1947.*
7	W	¶ *Indiana Telephone Association begins convention, Indianapolis, Ind., 1947.*



Courtesy, Philadelphia Electric Company

A Hydro Site near the Mason-Dixon Line

A view of the Conowingo plant on the Susquehanna river in Maryland

Public Utilities
FORTNIGHTLY

VOL. XXXIX, No. 9 APRIL 24, 1947

The Heat Pump Paradox

Recent publicity on this intriguing device has naturally led to much curiosity as to its exact nature. This is a discussion of the general principle of the heat pump which the layman can understand.

BY C. W. KELLOGG*
FORMER PRESIDENT, EDISON ELECTRIC INSTITUTE

DURING the present generation the average mind has been subjected to many and various strains. Besides the two World wars, with their unprecedented losses in human lives and material wealth, people have received profound shocks to their normal thinking and orientation to life. In the realm of ideas they have encountered the theory of borrowing themselves into prosperity, the method of showing a profit from an enterprise by ignoring large parts of its cost, the calling of a government a "Democracy" (demos means people) when it is run with an iron hand by 2 per cent of the population; so that it has become hard to distinguish between propaganda, paradox, and plain prevarication. In material affairs, they have seen and used radio (with its cousins, television and radar), synthetic substances of myriad sorts, global flying, and a host of other developments, all of which they have taken in their stride, without expecting to understand them. Through all this welter of change and iconoclasm, however, the average mind is still convinced that there is no such thing as perpetual motion or 100 per cent efficiency and that hence no mechanical device can put out more energy than is put into it.

NOW comes the claim by the electric utility companies that, by expending a given quantity of energy (in the form of the electricity used to op-

*For personal note, see "Pages with the Editors."

erate a heat pump and its auxiliary motors), up to four times as much heat as the electricity puts in can be obtained for warming our homes in cold weather. It is only fair to explain this paradox to the average citizen, lest he lose all faith in his fundamental thinking. For, not only is the claim itself correct, but also it does no violence to the sound conviction that you cannot get something out of nothing. The explanation in question is the purpose of this article.

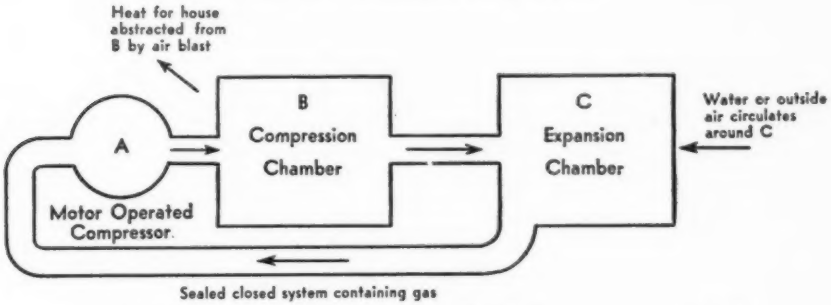
To begin with, it should be stated that, while a large part of the energy put into the motors of a heat pump by the electricity applied to them is recovered usefully, such recovery is merely incidental—the essential function the electricity performs in the process being to effectuate the collection and transfer into the house of heat already existing elsewhere. In the heat pump, therefore, the electricity put in has the same sort of relationship to the heat gotten out as railroad freight charges have to the value of the goods carried for such charges. In reality, the heat pump, with its 4-to-1 delivery, has an over-all efficiency of about 50 per cent. This is due to various unavoidable losses, which occur in the heat transfer but which are not important to this discussion. The essential point is that the performance of the heat pump is strictly in line with the basic principles of the conservation of energy and represents also that substantial departure from 100 per cent efficiency which, alas, accompanies all of our human efforts in mechanics.

WHERE then does the heat come from? The answer is: from the earth or the atmosphere. To the average person, heat is a relative matter, having to do with such points as the bodily temperature (98.6 degrees, Fahrenheit) on the one hand and the freezing point of water (32 degrees, Fahrenheit) on the other. The range from a "zero day" in winter to one of 100 degrees in summer may seem all that human nature can bear, but the difference between the two, measured on the "absolute temperature" basis (that is, that above the temperature representing complete absence of heat), is only about 20 per cent. For even on a "zero day" the temperature is still 460 degrees Fahrenheit above absolute zero.

The temperature conditions under which mankind lives on the earth represent relatively but a thin sheet of egg shell proportions. On the hottest summer day the temperature five miles up in the air is about 50 degrees Fahrenheit below zero; and on the coldest day in winter the temperature five miles below the earth's surface, based on such subsurface observations as have been made, is believed to be about 300 degrees above zero Fahrenheit. Much further down the earth may well be a molten mass, since we observe white-hot lava to erupt through those fissures in the earth's crust which we call volcanoes. Although the earth has cooled down enormously compared to the sun, from which it is commonly believed originally to have been detached, it still contains a tremendous quantity of heat. It is a part of this heat that the heat pump extracts from the earth or its surrounding atmosphere for the very practical purpose of keeping us warm in cold weather.

The next question is: How does the heat pump do it? The basic prin-

Analysis of Heat Pump Cycle



Step	*Initial Condition of Gas*	*What Is Done To It*	*By What*	*Result*
1	At house temperature: no pressure	Compressed	Electrically operated pump (A)	Temperature of gas in B raised by pressure
2	Gas in B hot: high pressure	Cooled down	Air blast, blowing over B	Gas cooled: part of heat in B blown into house
3	Under pressure in B but cooler	Expands into C	By pressure in B	Gas gets much colder, due to expansion
4	Gas in C very cold: no pressure	Heated	Water from well or outside air	Gas warmed but no pressure (*i.e.*, initial condition)

ciple involved was discovered nearly three centuries ago (1662) by Robert Boyle and is called Boyle's Law. It is that, if a gas be compressed, its temperature will rise in direct proportion to the amount of pressure applied and, conversely, if a gas is allowed to expand, its temperature will drop in proportion to the fall in pressure. The cycle which the electricity starts is, therefore, to compress, with a motor-driven pump, some such gas as ammonia, which thus becomes hot. The heat thus produced can be partly abstracted from the container by blowing air over the container.

If this were the end of the story, all the heat that would be abstracted would be only such part of that produced by the electricity as the blast of air could readily carry away — never 100 per cent. But it is only the beginning of the cycle. The compressed gas (from which some heat has thus been taken) is next allowed to expand, in doing which (following Boyle's Law) it gets relatively cold, for it will have lost not only the heat carried away by the air blast but also expansion loss.

The next phase of the cycle is where the heat of the earth or the air is picked up. The source of earth heat which has been found most effective is a deep well or some large body of water which remains liquid all winter. Water from such a source is brought into contact with the container into which the relatively very cold gas expands and adds

considerable heat to it (for difference in temperature causes heat to flow just as difference in pressure causes water to flow and such a temperature difference can be just as effective with outdoor air as with the earth). This point is of the utmost importance in understanding how the heat pump works, because the ability to get large amounts of useful heat "free" out of such apparently unpromising media as outdoor winter air or "cold" well water is that, in each case, the expanded gas is *much colder* than either of them. It is *difference* of temperature that makes heat flow.

THIS gas, thus warmed up from the air or earth as the case may be, is then again compressed by the electric motor-operated pump (thus raising its temperature), and the cycle starts all over again. It is repeated *ad infinitum* thus continually conveying the heat absorbed in the expansion chamber from the earth or air to the compression chamber, whence it is carried by the convection of the air blast into the house or room to be heated.

The energy put into the system is the sum of that required to run the compressor, to operate the air blast, and to circulate the water from the well or other source. And the amount of heat energy that can be absorbed from the earth or air and passed into the house is found to be up to four times the amount of heat energy in the electricity that is used to effect the transfer.

For some readers it may help to set forth in tabular form what has been said up to this point. The rough diagram, outlined on page 533, shows the physical features of the system.

As stated, the cycle is repeated indefinitely—the chilled expanded gas being continually warmed up in C upon contact with the circulating water or outside air, and heat from the hot, compressed gas in B being blown into the house by the air blast. Of the heat thus usefully blown into the house at the end of step 2, about 80 per cent is absorbed from the earth or air as the result of the preceding step 4 and the remaining 20 per cent results from the electric energy expended in compressing the gas in step 1.

An interesting added convenience of the heat pump system, which this diagramatic presentation makes clear, is the ability to use it for house cooling in summer. This is accomplished by a simple valve arrangement, causing the compressed gas in step 1 to go initially into C instead of B. In this case, the gas which goes into C (being much hotter than the water or air which surrounds it) gives *off* heat, instead of absorbing it; that is, pumps heat into the water or air. The function of the two chambers is thus reversed; the former (hot) compression chamber (B) now becomes the (cold) expansion chamber, the blower forcing cold air into the house. In a word, the heat pump can heat the house in winter and cool the house in summer, all by merely turning a valve.

JUST a word in closing about the relative efficiency of the heat pump process and how it compares with the orthodox methods of heating. Without going into the thermodynamic detail as to why it is so, the best modern steam electric power plant is able to get out, in the form of electric energy, only about 35 per cent of the heat energy contained in the coal or other fuel used

to operate it. The average house-heating equipment, coal fired, can get out, in useful heat for the house, about 55 per cent of that contained in the coal burned in it. Therefore, a pound of coal used to make electricity will, with the heat pump, produce over twice as much house heating as the same pound of coal burned in the average house-heating plant—even after allowing 15 per cent for electric line losses.

Striking as these results are, they fall far below the performance that theoretically ought to be obtainable. The theoretical efficiency of this cycle of transferring heat was worked out over a century ago by a Frenchman named Carnot. The formula he developed, for the ratio of the heat obtainable to the heat energy required to make the transfer, was:

$$\frac{To}{To - Ti}$$

where To is the temperature of the compression chamber and Ti that of the expansion chamber, both of these temperatures being expressed in degrees of *"absolute"* temperature, which is 460 degrees above that shown by the Fahrenheit thermometer. Thus, if the temperature of the condensed gas were 120 degrees Fahrenheit (580 degrees absolute) and the temperature of the earth (through the water supply) were 50 degrees Fahrenheit (510 degrees absolute), the recovery of heat would be 8 to 1. The practical ability to obtain only a 4-to-1 ratio with the heat pump results partly from the mechanical losses in the system, but much more from the impossibility, in practice, of attaining complete heat transference, either out of the condenser chamber into the house or into the expansion chamber from the earth-borne water or the outside air.

This not being a scientific treatise, many details are omitted. In many climates, the circumambient atmosphere outdoors can be used effectively as a source of heat, and, when so used, save both the cost of a driven well and the power required to circulate the water around the expansion chamber. Also, experiments are now being made to ascertain how effectively heat can be absorbed direct from the soil, thus eliminating the cost of a well. But this problem (which is still the subject of extensive research) has not yet been worked out.

The purpose of this article is merely to try to explain in layman's language the basic principles involved in what, on its face, is an incomprehensible paradox.

"THE plain truth is that, in these days of inflated prices, you could hardly find the electric bill in the average family budget. It's one of those minuscular items of expense, like garbage service and water, which amount to next to nothing. If power were absolutely free, the consumer wouldn't save enough to pay the average family's tobacco bill.

"All this talk about power isn't honestly based on rates. That's just the obvious camouflage. It's based instead on the political desire to socialize the industry. It's part of the long-pull campaign against free enterprise and the American way of doing things."

—EXCERPT *from Industrial News Review.*

Can Regulation Make Utility Investment Attractive?

Part I. *The problem of compensation to capital in the utility industry*

Judged by earnings and market values, the position of the utility investor has materially improved since the Hope decision in 1944. In that case the court literally washed its hands of specific formula and said that a reasonable result was after all the fundamental criterion of the regulatory process. Are we to assume from these circumstances that present earnings are reasonable, and if so what basis is there for such an assumption? The word "reasonable" is a relative term and standards of measurement are required for the protection of both investors and consumers. The following article advances the thesis that the dollar amount of fair return should not be dependent upon the kind of rate base employed. Since there can be only one really "proper" return, and, since the various formulas each aim at that same end, it is argued that the different results obtained with different kinds of rate base are due to a lack of correlation between the base and the particular percentage chosen as a rate of return. Thus, if a rate of return is used which is always consistent with the rate base to which it is applied, the same total return should be obtained regardless of the kind of rate base used. A conclusion which necessarily follows from these premises is that a rate of return predicated on *current* costs of capital is applicable only to a rate base expressed in *current* values.

By WALTER J. HERRMAN*

Perhaps one of the few principles of public utility regulation upon which most experts agree, regardless of their leanings as to end result, is that describing fair return or compensation to capital as the amount which, under efficient and economical management, will keep the utility industry sound financially and permit it to raise new capital in competition with other lines of business.

This principle has been approved by courts and commissions regardless of the method used to determine what that fair return should be. Various formulas have been tried but the basic principle has always been recognized. For example:

In following the reproduction cost —fair value theory, Mr. Justice Butler in the Bluefield Case[1] said:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on in-

*For personal note, see "Pages with the Editors."

[1] Bluefield Water Works & Improv. Co. *v.* West Virginia Pub. Service Commission, 262 US 679, 692, PUR 1923D 11.

> vestments in other business undertakings which are attended by corresponding risks and uncertainties. . . . The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

In accepting the use of the original cost by the Federal Power Commission in the Hope Case,[2] Mr. Justice Douglas said:

> . . . the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. . . . By that standard the return to the equity holder should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

And in enunciating the prudent investment approach in his concurring opinion in the Southwestern Bell Telephone Case,[3] Mr. Justice Brandeis said:

> The compensation which the Constitution guarantees an opportunity to earn is the reasonable cost of conducting the business. Cost includes not only operating expenses but also capital charges. Capital charges cover the allowance by way of interest, for the use of the capital, whatever the nature of the security issued therefor; the allowance for risk incurred; and enough more to attract capital.

Viewed in the light of these common objectives, it is natural to inquire why the specific methods prescribed by such eminent jurists seem to produce such contrary results in actual dollars and cents. Three surveyors might agree to meet at a given location although each chose a different course to reach the appointed spot. But, if the men were competent and their calculations were correct, it is generally accepted that the route selected should have no effect upon their point of destination. By the same token, is it not a reasonable expectation that three philosophical procedures—all aimed at the same conclusion—ought to produce approximately equal factual measures of that conclusion?

Inconsistent Results Probably Due to Combination of Inconsistent Data

In practice, the fundamental elements which go to make up total fair return are two—the rate base and the rate of return. The first of these elements has been a focal point of extreme controversy for two generations—the degree of the controversy, as well as the direction, depending largely on variations in the purchasing power of the dollar. Prior to Smyth *v.* Ames, when the dollar was appreciating in value, the utilities contended for original cost and the regulatory authorities for current value. Subsequently, when the trend reversed and the dollar began to depreciate, these respective contentions were reversed accordingly. It is probably safe to say that this controversy is as unsettled today as ever, even though some commissions have by arbitrary ruling designated original cost as the only "true faith."

During all this period, it is interesting to observe that, whereas there have been substantial differences of opinion as to the quantitative figure which is labeled "rate of return," there has been surprising little argument over the

[2] Federal Power Commission *v.* Hope Nat. Gas Co. (1944) 320 US 591, 603, 51 PUR(NS) 193.

[3] Missouri ex. rel. Southwestern Bell Teleph. Co. *v.* Public Service Commission, 262 US 276, 291, PUR 1923C 193.

principles by which this amount has been computed.[4] Although the influence of the rate on total return is exactly the same as that of the base to which it is applied, rate of return still remains pretty much the silent and relatively noncontroversial element of the partnership. Particular attention is called to the fact that only a small minority of the students of this subject have examined the vital question as to whether a change in the basis upon which the rate base is calculated might not properly call for a corresponding change in the determination of the rate of return.

Excluding special conditions in individual cases, it is generally agreed that, if price levels are constant, the total return derived under either the original cost method or the fair value method will be identical. *But, regardless of price changes, fair value multiplied by a rate of return properly associated with fair value may also approximate original cost multiplied by a rate of return properly associated with original cost.* When the answers are not alike, it seems suspiciously probable that someone has attempted to multiply unrelated quantities. Presumably a more careful examination of rate of return and how the determination of this factor is related to the base to which it is to be applied is necessary.

[4] "Despite its importance, the rate of return has been relatively neglected both in the case literature and in the economic and legal writings on the regulation of public utilities. Most commission and court decisions have disposed of the rate of return with a brief paragraph or two." Barnes, *The Economics of Public Utility Regulation*, 1942, page 516.

Orthodox Calculation of "Rate of Return"

THE orthodox approach to the quantity "rate of return" has been almost too simple. The initial assumption is that the market evaluation of earnings of existing securities, either of the company under consideration, or other representative companies, measures the going cost of capital. Stripped of refinements, the procedure reduces to the following formula:

Product of yield of typical bonds and per cent of bonds in capitalization = X
Product of yield of typical preferred stocks and per cent of preferred stocks in capitalization = Y
Product of earnings-price ratio of typical common stocks and per cent of common stock in capitalization = Z
The sum of X plus Y plus Z equals the current cost of capital.

In each case the per cent of the capitalization is based on market values of the securities involved rather than par or book values.

To illustrate: If the bonds of a company constitute 50 per cent of the capitalization and are selling to yield 3 per cent, the preferred stock constitutes 25 per cent of the capitalization and yields 5 per cent and the common stock making up the remaining 25 per cent in selling on a 7 per cent earnings-

¶ *"... the fundamental elements which go to make up total fair return are two—the rate base and the rate of return. The first of these elements has been a focal point of extreme controversy for two generations—the degree of the controversy, as well as the direction, depending largely on variations in the purchasing power of the dollar."*

to-price basis, then the current cost of capital by the formula is:

Weighted bond cost	$= 3.0 \times .50 = 1.50\%$
Weighted preferred stock cost	$= 5.0 \times .25 = 1.25\%$
Weighted common stock cost	$= 7.0 \times .25 = 1.75\%$
Current cost of capital	$= 4.50\%$

In actual practice this market cost of capital represents only a first approximation of the desired answer, and, in the determination of rate of return based on such current market appraisals, additional provision must be made for several other items such as bond discount and expense, preferred stock discounts, underwriting expenses, etc., all of which are incurred costs of the utility but do not show up in a market ratio analysis. Then, too, it is customary to average out yields and earning ratios over a period rather than to rely on "spot" results which may be abnormal. Finally, a "margin of safety" is usually included to cover such intangible considerations as "seasoning," and other immeasurable risks and costs, and to provide an incentive to capital and management over and above the bare bones statistical demands of the market place. Where this latter figure is around 4.50 per cent as above, the corresponding total rate of return might conceivably vary from 5.50 per cent to 6.50 per cent, depending on the specific facts of the case and the philosophical viewpoint of the personalities involved.

Can a Single Rate of Return Be Applied To Different Kinds of Rate Base?

THE writer has spelled out the foregoing procedure for determining rate of return in some detail because, except for minor details, it is a procedure quite generally accepted by most commissions and by many utility companies as well, *with little or no distinction as to the rate base to which the resulting percentage is to be applied!* For example, former Chairman Leland Olds of the Federal Power Commission, in an extension of his testimony before the House Committee on Interstate and Foreign Commerce, after quoting the excerpt (page 536) from the Bluefield decision, went on to say:[5]

> . . . The quoted statement is an excellent résume of the fundamental principles underlying the determination of a fair rate of return . . . *except that* the Federal Power Commission and many other commissions *now fix returns on investments as distinguished* from value . . .

If, as Mr. Olds states, a given rate of return, calculated as indicated, is applicable to a *cost* rate base, are we to assume that the same kind of return, similarly computed, is also applicable to a *value* rate base? Or must we use some other percentage, predicated on some other formula? If so, how should it be calculated?

Leaving the subject of return for a moment, it should be pointed out that few authorities have contested the economic propriety of the value rate base as such. The primary arguments against this approach have almost always been aimed at its complexity and at its "fanciful application in the hands of . . . experts financially interested in forcing the results to maximum limits."[6] The Federal Power Commission itself, in its supplemental brief to the Supreme Court in the Hope Case, said

[5] *Study of Operations Pursuant to the Public Utility Holding Company Act of 1935*, page 517.

[6] Bauer, *Effective Regulation of Public Utilities*, page 131.

Orthodox Approach Too Simple

"THE orthodox approach to the quantity 'rate of return' has been almost too simple. The initial assumption is that the market evaluation of earnings of existing securities, either of the company under consideration, or other representative companies, measures the going cost of capital."

at page 3: "The most serious defect in the use of present fair value . . . is its utter lack of precision. . . . The idea might indeed be workable in the case of a property of small size and little complexity." Assuming such a case of a small property, simple in structure, where the fair present value was agreed to by all parties, what kind of a rate of return should be applied thereto to find total fair compensation?

IF in such a circumstance the present value and the original cost were equal, perhaps the single formula given above might be applicable to each. But, if value and cost were different, it is clear that some different rate of return would have to be applied to value in order to obtain the same result derived by application of current capital costs to investment, as prescribed by Commissioner Olds. If we take this latter answer as a starter, it is easy to reverse the calculation to see what rate of return would be required with various assumed relationships between cost and value of a hypothetical utility. This is exemplified in the table at top of page 541, which is based on 6 per cent as a fair rate of return on original cost.

It is perhaps a reasonable question to ask by what process of rationalization a current rate of return of 3 per cent could be defended under present market conditions. Yet if the facts were as shown, and they are by no means extreme, we must conclude that such a rate is a correct rate to apply to a present value base of a property installed say in the year 1933, when material and construction costs were approximately one-half of what they are today, and assuming also of course that the popularly accepted figure of 6 per cent is a proper one to apply to an original investment rate base. Is it any wonder, in the light of such considerations, that Federal Power Commission expert C. W. Smith, while testifying in the recent Cleveland Electric Illuminating Company Case that a return based on current capital costs should be applied to an original cost

	Assumed Original Cost (1)	*Assumed Fair Value* (2)	*Total Fair Compensation at 6% on Original Cost* (3)	*Rate of Return Required on Fair Value to Produce Same Compensation As Column (3)* (4)
(a)	.....$1,000	$ 500	$60	12%
(b)	 1,000	1,000	60	6%
(c)	 1,000	2,000	60	3%

rate base, stated that he could not "realistically in a practical manner determine a fair rate of return to be applied to a reproduction cost rate base."

Return and Base Must Be Consistent In Economic Sense

THE writer prefers, however, and the preference seems logical enough, to assume that current costs of capital should not be applied to original cost, but to current values as recommended by Justice Butler in the first place.

From the point of view of algebraic treatment, at least, it follows that, if *current* market prices and *current* earnings of yardstick companies are to be taken as criteria of proper utility earnings, this criteria must be applied to *current* utility values. It is a miscalculation to apply such a basis of return to book value. (See testimony of Adrian M. Massie, in *Re* Consolidated Gas, Electric Light & Power Company of Baltimore before the Maryland Public Service Commission, November, 1944.) The equation is one of simple grammar school proportion:

> Proper Earnings of Utility Company are to Fair Value of Utility Company as Recent Earnings of Yardstick Companies are to Fair Value (Market Prices) of Yardstick Companies

If this formula is used, the foregoing illustration would be revised as shown below.

Under this procedure, the total compensation properly follows the value of money. Actually, in case (a) where the value of the dollar has been doubled, the return of $30 on an original investment of $1,000 is worth $60 in purchasing power related to the original investment, whereas the $120 return is worth the same $60 in purchasing power in case (c) when the value of the dollar is reduced by one-half. The real compensation on original investment is thereby kept whole under all circumstances.[7]

[7] The importance of real compensation is well demonstrated in the case of a utility company which built its plant at one cost level and

	Assumed Original Cost (1)	*Assumed Fair Value* (2)	*Total Fair Compensation at 6% on Fair Value* (3)	*Rate of Return On Original Cost to Produce Same Compensation As Column (3)* (4)
(a)	.....$1,000	$ 500	$30	3%
(b)	 1,000	1,000	60	6%
(c)	 1,000	2,000	120	12%

desires to sell additional stock at a later date when construction costs are considerably higher. Assume, for example, a plant consisting of 10 units of physical equipment having an original cost of $1,000 per unit and originally financed by the sale of 100 shares of stock at $100 per share, or a total of $10,000. Assume further that under regulation a return of 6 per cent on original cost or $600 per annum has been allowed. Now, if it is necessary to add one new unit of plant at a cost of $2,000, and, if the stock price is still $100 a share based on the allowed 6 per cent return, 20 shares of the new stock must be sold to finance this addition, bringing the total capital to 120 shares. The net earnings, meanwhile, at 6 per cent on total cost, will increase to $720, and of this amount ten-twelfths or $600 will be allocable to the original stockholders who actually provided ten-elevenths of the physical plant, while $120 or two-twelfths will go to the new stockholders who provided only one-eleventh of the plant. The effect is just as though the original investors donated a portion of their investment to the new shareholders. By contrast, if a return on original cost is permitted which is properly related to the purchasing power of the dollar, all investors, old and new, are treated equally. In the assumed case, the return should be not 6 per cent but 12 per cent, each present dollar being worth only one-half of the dollars contributed by the original investors. The economic relationships now work out as follows:

Original Plant—10 units—cost $10,000 and represented by 100 shares of stock. Current rate of return—12 per cent or $1,200 or $120 per unit. Price of stock on 6 per cent basis—$200 per share.
Added Plant—1 unit—cost $2,000.
Required Financing—10 shares of stock at $200 per share.
Added Earnings at $120 per unit—$120 or $12 per share, equivalent to 6 per cent on market price.
Total Earnings—$1,320 on 110 shares.

Thus earnings to original shareholders who provided ten-elevenths of the plant are $1,200 or ten-elevenths of the total, and earnings to the new stockholders who provided one-eleventh of the plant are $120 or one-eleventh of the total earnings.

In actual practice, the current cost of capital as of any given date adds another variable to the equation. If, in the above case, the current cost of capital was 6 per cent at the time of the original investment and declined to 4 per cent at the time of the second financing, it is obvious that the earnings necessary to support a $200 per share valuation of the stock at the latter date would be only $8, equivalent to an 8 per cent return on the original capitalization.

Nationalized French Utilities Need Subsidy

"FRANCE'S *nationalized gas and electrical industries will require a subsidy of 18,000,000,000 francs for the coming year . . . This is about $151,000,000 at the legal exchange rate*

"When these industries were nationalized on June 1, 1946, they had surpluses totaling about 8,000,000,000 francs.

"Informed circles said that not all the required subsidy represented operating losses. Part of it—just how much could not be learned—will be used for re-equipping parts for industries that have suffered acute depreciation of equipment in the last seven years. Renewal of at least part of such equipment, particularly electrical transmission lines, according to persons in a position to know the needs of industries, is necessary.

"Inability of banks and others to obtain accurate figures on the financial position of nationalized industries is causing criticism of the Ramadier government in certain quarters. It was noted that when the industries were privately owned they were required to publish regularly statements of their financial position. The nationalized banks still make such statements monthly, although losses, if any, are given only in the annual reports."

—EXCERPT *from special dispatch, The New York Times.*

Murder by Telephone

The characteristically confidential nature of telephone service makes it vulnerable to abuses by crooks, crackpots, and other persons of evil design or annoying habits. The delicate problem of protecting public interest from such activity without undermining the value of the service and the industry's good public relations is reviewed in this article.

By FRANCIS X. WELCH*

Do you know that there are more than two dozen major crimes you can commit by telephone? This is not a trick question involving the necessity of any other contributory action than the mere act of telephoning. Indeed, if one wanted to quibble about making a separate account of such activities as accessories before and after the fact—which are catalogued as separate crimes in some penal statutory codes—one might easily run the total up into the hundreds.

What we are talking about, here, is a crime or statutory felony, the commission of which consists entirely of picking up the telephone, making the call, completing the call, and putting the receiver back on the hook. Only this and nothing more.

Here is an example of a crime committed by telephone: Let us say that the statute provides—as it does in many states—that, in the case of a conspiracy to commit premeditated murder, all parties to that conspiracy may be found equally guilty in the first degree. Let us say that a hypothetical gang leader, Oyster Eyes Jones, had determined to do away with his commercial rival, Three Fingered Mike Finnegan. To lure the skeptical and cautious Mr. Finnegan into ambush it is necessary for Oyster Eyes to enlist the aid of Mr. Finnegan's girl friend, Chanel Sal. He does this for the trifling sum of $50,000. Whereupon Chanel Sal (after first seeing that the check was duly deposited to her account, and having obtained an early reservation on an out-of-town clipper) undertakes, as her part of the program, to call Mr. Finnegan by telephone. She makes a date which brings him to the well-known X marks the spot.

In such a case it is necessary for the prosecuting attorney to prove only that Chanel Sal knowingly and willfully put in a call to Finnegan's apartment and secured his agreement to meet her at the place of the preordained ambush. It would not be necessary for the prosecuting attorney to prove any further

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act (on Sal's part) in order to show that Chanel Sal was a party to the death conspiracy. This would entitle her—with jury approval — to occupy the chair of applied electricity in a certain prominent state institution. In plainer words, Chanel Sal would have committed murder by telephone.

It will be readily seen that the telephone conversation, as part of a conspiracy, could be the background of a guilty verdict for many kinds of crimes. But it is not necessary to resort to such a constructive extension of guilt (via the conspiracy charge) in order to commit crime by telephone. Crime by telephone can be committed without a conspiracy—by the very act of telephoning.

In checking over a typical criminal statute, one finds that crimes are usually broken down into three general classifications: (1) crimes against persons; (2) crimes against property; (3) crimes against peace, public policy, and morals.

Here, therefore, is a choice assortment of a number of crimes which can be committed entirely by telephone—classified under the three general headings:

1. *Crimes against Persons*

Criminal slander. (Telephone application here is obvious.)

Blackmail.

Threats of murder, assault, or other physical violence. (This crime is distinguished, in many criminal statutes, from the more serious personal crimes of murder, assault, etc.)

Extortion and fraud generally. (In an Oklahoma case, an attorney was actually induced to destroy a will by a fraudulent telephone call; but fortunately he had kept a file copy, as lawyers will.)

Accessory before and after the fact. (In cases involving direct physical crimes, including murder, assault, cruelty, seduction, etc., merely providing an alibi by telephone for a party accused of any of these crimes would make the party telephoning an accessory before or after the fact, as the case might be.)

2. *Crimes against Property*

Threats of destruction and sabotage. (Calling a night watchman away from his post with foreknowledge of a destructive condition which he could correct if present would be sabotage.)

Larceny, embezzlement, and obtaining money under false pretenses. (Calling someone to arrange to have a check mailed to you, to which you are not entitled, would be an example of this.)

False alarms as to floods, fires, etc.

Accessory before and after the fact, in cases involving direct physical crimes against property such as burglary, housebreaking, malicious mischief, etc.

3. *Crimes against Peace, Public Policy, and Morals*

Threats of violence generally. (The typical "crank" threat to blow up the Post Office at a given time is an example here.)

Antitrust violation. (In one of the early oil company prosecutions, the government claimed that the oil companies actually agreed on price fixing by telephone, from day to day, to avoid putting their conspiracy in writing.)

Incitations to riots. (Sending out invitations to a lynching party is an example here.)

Sedition and espionage.

False testimony and obstructing justice. (Calling in a fraudulent deposition over long-distance telephone; calling judges, witnesses, jurors, attorneys, etc., out of town or otherwise interfering with their functions through telephone messages.)

Bribery. (An offer to pay bribe money by telephone has been held to be the same as bribery, if it is acted upon by the party intended to be bribed.)

Maintaining public nuisances, disreputable establishments, etc. (This is probably the most frequent of telephone criminal abuses because of its convenience for race horse bookmaking, etc.)

Accessory before and after the fact to all physical crimes involving various moral charges and statutory offenses.

IN the realm of misdemeanors, and offenses less than felonies, the accessory uses of the telephone as a means of committing such offenses present a myriad of possibilities, far too numerous to mention. Traffic laws and game laws, laws against getting a haircut on Sunday, putting garbage in wrong types of receptacles, and other relatively trivial deviation from the ideal

standard of civic conduct, are all obvious possibilities.

The question naturally arises just how laws and regulatory practices might be adjusted so as to reduce crime by telephone, without interfering with the convenient and dependable telephone service which is traditional of American usage. There is also the need for protecting the telephone company from undue and unwarranted criminal liability or any other type of liability as a result of such crimes or violations. Assuming the soundness of the common-law theory that punishment for crime is deterrent to crime, one step might be to check over criminal statutes, to see that crime by telephone does not stand in any preferred position. By that it is meant there should be no statutory loophole whereby the lawbreaker can go scot free of penalty, simply because he has elected to do his dirty work through the instrumentality of the telephone.

Strange as it may seem, this situation can really come into existence—without anybody being especially to blame. The telephone is, after all, a fairly modern, social institution—at least it came on the scene of everyday American life years after some of our basic criminal statutes, which are still in force, were written. Take, for example, the everyday common occurrence of a false fire alarm. Aside from being an expensive nuisance to the taxpayer, the false alarm constitutes a grave traffic hazard. People have been killed, injured, and valuable property has been destroyed as a result of accidents occurring from the necessarily swift operation of the fire department's apparatus in responding to emergency calls which turn out to be false alarms.

YET it might surprise both the telephone company and the fire department officials to know that it is possible, in some states, to put up a perfectly valid defense against a police charge for putting in a false alarm by telephone—a defense that would not be available if the alarm were otherwise given. In plainer words, the mere use of the telephone might render the offending party immune to prosecution.

Here is how such an anomalous situation comes about: Let us take the language in § 299 of the District of Columbia Code relative to "false alarms of fire." This section states:

> It shall be unlawful for any person or persons to willfully or knowingly give a false alarm of fire within the District of Columbia, and any person or persons violating the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and be punished by a fine not exceeding $100 or by imprisonment for not more than six months, or by both such fine and imprisonment. Prosecutions for violation of the provisions of this section shall be on information filed in the police court by the corporation counsel of the District of Columbia or by any of his assistants.

¶ "IN *the realm of misdemeanors, and offenses less than felonies, the accessory uses of the telephone as a means of committing such offenses present a myriad of possibilities, far too numerous to mention. Traffic laws and game laws, laws against getting a haircut on Sunday, putting garbage in wrong types of receptacles, and other relatively trivial deviation . . . are all obvious possibilities.*"

This statute was enacted by Congress on June 8, 1906, when the number of telephones in the District of Columbia was relatively quite limited. It was enacted shortly after the District government had installed an improved (as of that date) telegraphic "pull box" alarm system. In other words, it might be argued that the intention of Congress in passing the law was to protect the citizens of the District of Columbia from the abuses of their new fire alarm system rather than the use of the telephone, which was so limited in that day. And since the words "by telephone" are in on way used in the language of the text, defense counsel (under the familiar rule of criminal law that penal statutes must always be *strictly* construed in favor of the accused) might well argue that Congress did not intend it to cover telephone conversations.

It is hard to see how the government could meet such defense if it were raised. Fortunately, to date, people given to ringing false alarms by telephone have not thought of it. Over in Delaware, an old state law against sending out false alarms of fire goes back to an enactment of the legislature in 1875—one year before the telephone was patented by Alexander Graham Bell. A thorough survey of state laws and municipal ordinances would probably reveal a number of similar anachronistic defects in these old-fashioned penal statutes.

WHAT has been said here about fines and violations for false alarms could be extended to other penal statutes, such as to dealing with the spreading of false reports of bank failures, criminal slander, etc. There is even a possibility that a "catch-all" corrective provision, which would place the telephone conversation in the same status as a spoken message or other personal communication (assuming proper identification were proved), could wipe out such criminal prosecution difficulties at one fell swoop. This would have no connection with the issue of proper or improper evidence secured by "wire tapping," which is another legal proposition entirely.

This brings us to another side of the same picture—the possibility that the free and untrammeled use of the telephone might be so hedged about with restrictions as to undermine the confidence which the public now has in this indispensable utility service.

Most of the difficulty which the telephone industry has actually had with the abuses of service has been in that "half world" area of gambling and other disreputable establishments. Not only the reform element, but even some of our more worldly citizens, who have been deprived of telephone service since installation shortages became so acute, have occasionally been annoyed over stories about police raiding some bookmakers or other gambling joints and finding them operating chiefly on the basis of a somewhat elaborate multi-telephone service and even PBX switchboard facilities. They have naturally wondered what such characters were doing with telephones for such purposes when returning veterans and others were not able to get them. Of course, some politicians quickly moved in on such a situation by making impossible demands.

BUT the answer is not always so simple as the average citizen might

Modern Dial Equipment

". . . modern dial equipment has increased the secrecy of telephone service to the public so that it almost defies detection. This is not generally known, and properly not publicized in the lay press. But it is a fact that it is necessary, even in cases of advance notice, to 'hold' a crackpot caller (by one subterfuge or another) on the line for a minimum of at least fifteen minutes before the call can be 'traced' to any originating dial station."

suspect. The telephone company is not the arbiter of the morals of a community and consequently does not want to be put into any such position. During the era of prohibition, a certain New England utility company brought much scorn upon itself by the unthinking suggestion of an overzealous official that meter readers might report evidence of home brewing which they might observe during their ordinary inspections. Officials who remember that incident would never knowingly get themselves into a similar situation.

And yet some state laws require communication companies to withhold service to some gamblers under the penalty of becoming guilty as accessories. It is a ticklish situation to handle at best. The rule so far has been to permit telephone companies to withhold or withdraw service which they know would be used for unlawful traffic. Even these cases have been vigorously litigated.

Certainly the situation is such that thought might well be given to some regulatory procedure which would not only relieve the company of unwarranted and unpremeditated liability of a criminal nature but would also relieve the company of the equally undesired rôle of a community reformer, censor, or other judge of the morals of its own customers.

Finally, there is the increasingly serious problem of the crackpot or nuisance call. It is increasingly serious because the rapid spread of improved automatic or dial equipment is making this type of telephone abuse more and more difficult to spot, or check. Back in the old days of manual switchboards, it was a simple matter for an alert operator to "trace" a call to the police, or fire department, or to any other station on notice of trouble.

BUT modern dial equipment has increased the secrecy of telephone

service to the public so that it almost defies detection. This is not generally known, and properly not publicized in the lay press. But it is a fact that it is necessary, even in cases of advance notice, to "hold" a crackpot caller (by one subterfuge or another) on the line for a minimum of at least fifteen minutes before the call can be "traced" to any originating dial station. Even the "poison letter" writer of former years would be a cinch to catch up with by modern methods. But he (or she) has given way to the anonymous nuisance caller.

Last December the telephone bell at Scotland Yard in London was tinkling overtime when the epidemic of telephoned bomb threats began. Police were dashing from one threatened spot to another, playing a not very funny game of hide and seek with a gruff-voiced caller who multiplied like an amoeba.

On December 16th, when asked for the latest score, the Scotland Yard press informant looked at a clock reading 6:58 and said, unperturbed, "Hmmm, we are going up at 7 ourselves. We got that word at 4:20. Another threat for Euston station adds up to about eighteen calls to date."

Calls forecast explosions at a range of London landmarks, including railway stations, a newspaper office, the Greyhound stadium, and a restaurant. Scotland Yard and the General Post Office, which controls the British telephone system, worked out a scheme during the week end by which police could be directed to the scene of a call within two or three minutes. But calls from scattered public kiosks netted no suspects.

The will-o'-the-wisp telephonist began with threats to blow up Scotland Yard and the Marble Arch. Patrols at both spots were reinforced, and newspapers raised up their headlines.

A THREAT to Victoria station arrived by mail. Other threats since have named Paddington station, the Royal Artillery Records Office, Shepherds restaurant at Mayfair, the *Daily Mirror,* Walthamstow Greyhound stadium, the London Passenger Transport Board, and various underground stations.

Some calls went to Scotland Yard, some directly to allegedly doomed spots. The message was usually succinct: "Your building will be blown up this afternoon," or, "You had better clear Goodge street station in half an hour."

At first, crowds were hustled out of some of the threatened places, but the bomb warnings later were treated more skeptically, and a thorough search of the premises sufficed.

Summing up, it would appear that crime by telephone is here to stay for two main reasons: (1) The increasing use of the telephone as a means of social communication is spreading or becoming available to a greater and greater proportion of the mass population; and (2) the increasing use of dial equipment is making detection more difficult and the criminals are getting wise to it. Thus the telephone industry is confronted with the anomalous situation that criminal abuse of the telephone is likely to increase by very reason of its efforts to improve its service to the public and make it available to more people.

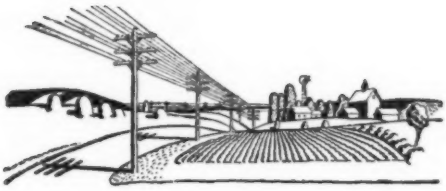
Corrective efforts at this stage would seem to be mostly in the legalistic field.

Principal statutes may be jacked up to plug loopholes by which criminals by telephone can escape. On the other hand, the right of the American people, as a whole, to confidential communications, as the late Justice Holmes said in the famous wire-tapping case, is more important than catching or convicting an occasional criminal. Maybe future technology will bring forth detective devices which are practical and not too expensive. Meanwhile, the situation is a mess and getting no better by the minute.

The Need for "New Money"

". . . Some individuals may view a decline in the stock market as nothing more than just retribution for speculators, but such is a narrow and shallow view, for new capital must be had by industry if it is to expand production, provide jobs for our workers, and raise the standard of living. The bulk of such new capital must come from the security markets and, when they are unable readily to absorb a volume of new issues, only a fraction of that necessary for full prosperity, something clearly is wrong. We need, it seems to me, to revise the SEC [Securities and Exchange Commission] restrictions on new security issues and on the securities markets so that new capital can be supplied where it is needed. The SEC seems to sense that this is the case for it has asked for suggestions as to what changes should be made. That is a wise step for it is urgently necessary that the needed changes be made promptly so that industry can obtain the new funds required to translate into reality the vast potentials for prosperity which now exist. Finally it is imperative that Federal Reserve margin regulations be relaxed. It is anomalous that at a time when credit is made available on spectacularly generous terms for the purchase of homes, not a dollar of credit is permitted to those who wish to become part owners of the mortar, bricks, and machinery our major industrial concerns need if they are to expand production. Borrowing on securities is not always for speculative purposes and I am persuaded that there is hardly a more productive use for credit in the broader sense than by investors who wish to buy the new securities of corporations whose expansion is necessary if we are to have full employment."

—MURRAY SHIELDS,
Vicepresident, Bank of the Manhattan Company.



How to Foster Community Development

An interesting area experiment in promoting the local community which is worthy of attention in the utility industry generally.

By A. C. SPURR*
PRESIDENT, MONONGAHELA POWER COMPANY

RECENTLY, in one of my periodic letters to all employees, I discussed the importance of aiding in community development and of the obligation which each of us who makes up the working force of the Monongahela Power Company owes to our community. It was merely a "family" letter, reviewing the efforts of our territorial development department to help in the building of better communities and urging individual employees to follow the same course.

The response of employees has been voluntary and, I might add, enthusiastic in many cases, without the company holding pep meetings or assigning individuals to community projects. The real influence, to my way of thinking, has been example. Our people have been numbered among community leaders for many years. When territorial development became an active and result-producing project of the company, and the public came to recognize the leadership that the company was furnishing in the entire area which it serves, other employees got the idea.

I'VE heard more than one of them express the thought that, inasmuch as the company is into this or that project and thinks it is worth while from a company standpoint, I suppose it's good for me, too.

That attitude on the part of the company's employees is only one of the factors, however. Another is that any community with a job to be done is in the market for leaders and workers—and they naturally turn to friendly and coöperative sources that are able and willing to do a job. So, our company has become a principal supplier of people to do community jobs. We've got a large staff of people, talented in almost any administrative field. That's natural for a company that operates in an area comprising 33 counties. So,

*For personal note, see "Pages with the Editors."

when a man is needed for this or that, the sponsors of the project know there must be someone in the Monongahela Power Company who can do it. They know, too, that if the assignment is within reason the power company will gladly let its employee or group of employees participate.

It is our firm belief that the future of our company depends largely on the future of the communities we serve. You can't sell something to a person who doesn't have the money or the desire to buy. By the same token, a poor, run-down community isn't going to use nearly as much electricity as the up-and-coming community that enjoys thriving business and an appreciation of good living. That's why this utility company has its territorial development department. That's why we have a sizable staff of people working constantly to improve agricultural economy throughout our territory; employ an industrial counselor to help communities get new industry, a housing counselor to help ease the housing problems of today and plan for tomorrow, and a recreational and tourist counselor who is showing communities the way to provide community recreational facilities and working for improvement of the area's tourist business.

THOSE people are our technical leaders. But back of them is a large and growing army of volunteers —company employees from department heads down to clerks, meter readers, and line crew men. By example much more than by exhortation they've awakened to the importance of trying to be good citizens.

Our employees who have the "know how" are in constant demand, as are our facilities. Be it a bond drive, a community chest drive, a municipal swimming pool, or a ham-and-bacon show, a Monongahela man is in the picture somewhere, even though the company name isn't mentioned. And, it isn't at all necessary to mention the company's name. The public within a community doesn't need to be told about its own people, but if company affiliation is constantly thrown in their faces they naturally become suspicious.

One of our employees was lent to a city chamber of commerce to work up an artificial insemination program designed to improve dairy herds of the area. He spent six months exclusively with that project and had an important part in its success.

Members of our engineering staff have drawn plans for several swimming pools in the area, a service that was gratis to the sponsoring municipalities.

When the war came along and took a local college coach, our recreational counselor stepped in and handled the football team for one season, after his return from the Far East for the American Red Cross.

Scattered through a city planning commission are company employees.

ONE of our men recently headed up a movement to provide a special tax levy to help schools of the county. Before he was through with it he even had me on the radio, speaking for a proposition that will cost us about $120,000 in additional taxes.

All these were more or less special projects that did succeed in increasing farm and community income. This is directly in line with our thinking which

Sample of Company Letter Sent to Employees and Stockholders

Dear Fellow Employee:

My purpose in writing this letter is to tell you about the territorial development department of our company—and what it is doing and what it means to each of us. I feel this subject warrants your deep interest because, whether or not you realize it, you're directly involved. In fact, you're a part of that department.

But first I'll try to draw you a word picture of the territorial development department. It has been called a "glorified chamber of commerce." Perhaps that is not far wrong, since the department is mixed up in all sorts of community activities and does a bit of drum beating for civic progress. Actually, its job is to aid in commercial, industrial, agricultural, and other phases of development seeking to improve the way of living and increase the incomes of our customers.

The department does not sell electricity or gas or appliances. All members of the staff are expected to carry out their varied duties with no thought that what they're doing will mean more immediate revenue for Monongahela Power Company. Community interest comes first. Territorial development seeks to integrate the company, its facilities, and its employees into any and all worth-while community improvement projects.

I'll touch very briefly on some of the current activities of the territorial development department:

It is fostering "Farming for Better Living" in 24 counties, through which nearly 1,800 farmers are participating in contests that are based on improving farm methods, better crops and livestock, and better living.

It is helping farmers with problems such as farm building construction.

It is going into the farm home and showing the housewife how methods and appliances can lessen work in the home, bringing about greater efficiency and greater comfort.

It is promoting, through the leadership of a trained soil conservationist, a united rural-urban attack on soil erosion—a threatening national calamity unless it is halted.

It is showing farmer and merchant how to improve business through proper sales and merchandising methods and mutual coöperation.

It is encouraging industrial expansion, helping communities fit themselves for such expansion, and "selling" the territory to industries that could locate here advantageously.

It is helping communities to formulate recreational programs, and sparking drives for tourist trade development.

It is working with other civic groups in combating the current housing crisis, and helping future home builders plan for the places they're going to have some day.

That's the general story. A complete list of the department's doings would run far beyond present space limitations. Boiled down, the department, through its headquarters and division staffs, is keeping the company active in all community efforts.

As a company we have a definite stake in these activities for at least two reasons. The first is a moral obligation to assist in making our territory a better place in which to live. The second is the sound business principle that whatever helps a community or the individuals within a community will eventually help the company.

Likewise, each of us has an obligation to his community which can be paid off through participation in community endeavors. And there is the reason for this letter. It is my thought that a better knowledge of the workings of the company's territorial development department will provide every Monongahela employee a sound basis for taking an active interest in the development of his or her own community.

The territory served by the company has made real economic and social progress during the past eleven years, but we still have a long way to go. The very best vehicle for such progress is community effort and planning. The measure of prosperity which comes to each of us in the years ahead will be gauged by what we put into such effort.

Sincerely yours,
(Signed) A. C. Spurr

is that the customer has to make money first before we can. Therefore, we selfishly help him all we can so that eventually we can make more money. And may I remark here that whenever we start on a new project or program we are very, very frank in saying we are in it to make money but that the others must make it first before we can get a chance at it. We point out in a city that the general merchant will take about 22 per cent of every new dollar of income created; the automotive services about 18 per cent; the real estate about 17 per cent; amusements, etc., about 7 per cent, while we get 1.2 per cent of the payroll dollar, but that justifies our participation.

There are hundreds of cases similar to those mentioned. And I could mention also a number of instances in which our employees have, without interference by the company, openly and bitterly opposed some of the projects that have the fullest endorsement of the company's "brass hats." And there, it seems to me, is one of the reasons why we're getting along so well. Our employees know that they're free to live their own lives. They are asked to do only the specific job for which they are hired. When it comes to politics, community issues, charitable appeals, or what-have-you, they're free to follow their own consciences. The company, as a company, has carefully avoided any acts that might be interpreted as an attempt to place pressure on its employees in matters not directly related to their company duties. Participation in community development is not a company duty.

FAR be it from me to suggest that in Monongahela we enjoy exceptional employee relations. That's a dangerous subject at any time, and in these days it can change overnight. But I think we are fortunate in that the people who work for this company have real respect for it and recognize the sincerity of its effort to be much more than just an electric power company.

We haven't attempted to *enlist* employees to do the tasks of community development. We have, however, carried on a program of education. Through periodic letters to all employees, such as the one referred to, we have tried to give them informative and unbiased résumés of events and policies that concern the company, the territory we serve, the communities that make up the territory, and the employees themselves. We've tried to get across to them the reason why the company is actively engaged in community development and why their own participation can react to their own personal advantage.

Personally, I feel strongly on this subject of community development. Our system of free enterprise has come through some shaky years, and has faced the threat of being crowded out by doctrines that, in their glamorous attire, looked inviting to a people whose faith in free enterprise had been permitted to slip. And why? Because all of us were forgetting our obligations to one another—the obligation of management to work for the welfare of its community, the obligation of individuals to be good neighbors, and the obligation of each of us to think for ourselves and to help ourselves.

AS an illustration of what may be done for the good of the community the West Virginia Chamber of

Commerce's agriculture committee, of which I am chairman, has been conducting what we call rural-urban forums—an effort to get businessmen to realize that the farmer is as important as industrial smokestacks, and to get them to think of the farmer and his problems as a part of their community and their problems.

The response to these forums has been most encouraging. Over at Parkersburg, a meeting sponsored jointly by the state chamber, the Parkersburg Chamber of Commerce, and the West Virginia Bankers Association attracted more than 350 people.

Our company was well represented and several of our people took part in the discussions.

I might add here that the principal speaker was C. W. Bailey, president of the First National Bank of Clarksville, Tennessee, and now president of the American Bankers' Association. After seeing what we of Monongahela and of other enterprises in West Virginia were doing, Mr. Bailey offered the comment that, if the industry as a whole followed a similar course, there would be no more TVA's.

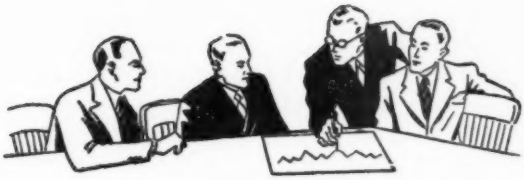
Well-planned and sound community and territorial development is our insurance against further threat to the American way of living. And we're going to get that kind of development only through the united efforts of the citizens, individual and corporate, who make up the communities.

"OUR *advocates of central planning point to Great Britain as an example of centrally administered economic controls without loss of personal freedoms. Speaking quite frankly, those statements fall considerably short of the truth. There are in Great Britain something like a half-million people who cannot leave their jobs without the consent of someone in the government. There are more than 2,000,000 who cannot leave the industry in which they are employed without governmental permission. The well-known Mr. A. A. Milne speaks of the bygone days when a Briton could breathe without signing something in triplicate.*

"We are seeing in this country the final destination of attempts to plan the economy. The experiment in fixing the price of meat has resulted in a shortage of meat and that shortage has led to suggestions that livestock be forcibly seized.

"These developments are before our eyes. They are shocking. Yet other schemes of control, attractively clothed in slogans whose texture is never fairly examined, will be paraded, and men who are trustees for the jobs and property of thousands of our citizens will lend such schemes their prestige. They will, for instance, contribute their money and their time to further a scheme of fiscal control, which the honest professorial authors frankly state involves a government by a committee of experts standing above the President and Congress."

—EDITORIAL STATEMENT,
The Wall Street Journal.



New Taxes for Utilities

A roundup of legislation enacted and pending affecting utility taxes as a result of the current state biennial sessions.

By BETHUNE JONES*

HIGHER state public utility taxes or broadened authority for the imposition of new municipal taxes against public utility firms have been proposed thus far this year in at least 19 states, an early April survey of developments in state legislative sessions throughout the country discloses.

While 16 of the 44 legislatures convening in regular session this year, and three special sessions, already had reached adjournment April 1st without enacting any new major state taxes aimed solely at utilities, such proposals were still pending on a wide front and the general trend in state capitals is toward a sharply increased spending level threatening new direct and indirect tax burdens for public utilities as well as other industries.

At the recommendation of Governor Thomas E. Dewey, the New York state legislature made permanent the state's gross utilities tax which heretofore had been levied on a so-called "emergency" basis. Rejected by the New York law mill, however, was an additional 1 per cent on top of the existing 2 per cent tax on gross income of utilities. Such an additional levy, to yield $11,250,000 a year, had been suggested by Governor Dewey as one of a number of alternative means of financing a proposed soldier bonus program. Increased cigaret and personal income taxes were approved by the legislature to go into effect next January 1st if the electorate sanctions a $400,000,000 veterans' bonus bond issue in a November referendum.

OHIO's legislature reënacted for two years the state's .65 per cent utility excise tax for poor relief, with an amendment to permit the $2,500,000 annual revenue to be used also for "other welfare purposes." Abolition of the levy had been advocated by the coördinating committee of the Ohio Public Expenditure Council. In addition to this "temporary" measure, Ohio also imposes a 2.35 per cent utility excise tax.

A bill to increase assessments against public utilities from $275,000 to $375,000 annually for the operation of the Ohio Public Utilities Commission was

*Professional writer, Red Bank, New Jersey.

recently passed by the Ohio senate and sent to the house. The measure was amended to increase the salaries of members of the commission from $6,000 to $9,000 a year.

Ohio cities, meanwhile, are seeking enactment of legislation to permit them to levy local excise taxes of 3 per cent on gross receipts of public utilities and municipal taxes of 3 per cent on consumers' utility bills. Last year the Ohio Supreme Court invalidated local taxes on consumers' utility bills in Columbus and Youngstown on the grounds that the field had been preëmpted by the state. To overcome this obstacle, municipal interests subsequently proposed that the state vacate the utility tax field and turn it over to municipalities. This was opposed, however, by State Tax Commissioner C. Emory Glander, who suggested instead that the state might permit municipalities to levy consumers' utility taxes by amending the state's retail sales tax act and the act levying the state tax on utility gross receipts to remove limitations on local taxing power.

In his budget message to the Ohio legislature, Governor Thomas J. Herbert also recommended that utilities be taxed by both state and local governments, with indications that legislation to permit such action would be enacted.

PENDING in the Pennsylvania legislature is a bill to allow local governments to tax the real estate of public utilities, now exempt. It was estimated that the real estate of utilities which is now untaxed has an assessed valuation of $300,000,000 in the state.

Being drafted by officials of the city of Portland for submission to the Maine legislature was a measure to authorize a local consumer's tax on sales of telephone, gas, and electric service. Portland officials also sought legal power to negotiate with the Portland Coach Company on sharing of the costs of snow removal and street maintenance on local bus routes. Whether these proposed measures would apply to all Maine municipalities or only to Portland had not been indicated at this writing.

Also under consideration for submission to the Maine legislature was a proposal to empower municipalities to tax personal property of telephone and telegraph companies. Under existing laws, only land and buildings of such companies can be taxed by Maine local governments under excise tax on the companies gross receipts.

A Vermont bill would change that state's system of taxing telephone companies. As originally introduced, the bill would exempt telephone companies from paying the present state tax paid by all utility companies but would allow real and personal property of the companies to be taxed by municipalities in which the property is located. After company representatives warned such legislation would result in a spiral of further telephone rate increases, a house committee recommended to amend the bill so that the companies would be taxed locally only for land and buildings, and continue to pay the state levy. Representatives of the companies indicated the proposed legislation would be less objectionable to them if so amended to exempt their personal property from local taxation.

IN Alabama, where recess committees have been busy in preparation for the May opening of the 1947 legisla-

tive session, Governor James E. Folsom has asserted his determination to increase the state's tax collections from "big utilities and monopolies" by bringing them "in line with the widow in the branch head" in payment of property taxes. "Some of the big utilities and monopolies," he said, "have been getting away with ad valorem assessments as low as 45 per cent of their valuation, while private individuals have been required to pay taxes on 60 per cent." The governor said he didn't know whether his plan would require legislation, but declared that "whatever it takes, we'll do it."

Upward revision of utility taxes also was scheduled to come before the 1947 Florida legislature, convening April 7th. Terming Florida's present utility tax system "antiquated and inefficient," the citizens' tax committee, an interim study group, proposed a thorough overhauling aimed at gaining an annual increase of $1,500,000 in state and local revenue. Elimination of "discrepancies, disparities, inconsistencies, and discrimination" should raise receipts of cities, counties, and the state from utility taxes from $7,500,000 a year to about $9,000,000, the committee estimated.

The Florida interim study group recommended that a proposed state tax commission be empowered to assess all electric power and telegraph property as is now done by the state railroad assessment board. Declaring that Florida lacks a "systematic, well-balanced utility tax structure," the committee said the job of assessing utility values for tax purposes is performed by officials whose procedures vary "from county to county, from city to city, and from cities to counties."

HIGHER utility levies were included in tax measures submitted to the Rhode Island legislature to carry out budget recommendations of Governor John O. Pastore. One proposal would lift the tax on telephone company gross earnings from 6 to 7 per cent, and freeze the tax on electric companies at 2½ per cent of gross receipts. The present 2½ per cent tax includes a one-half per cent emergency tax scheduled to expire June 30th.

Revenue-raising possibilities which have been under consideration in Connecticut include a proposal for a utility tax, percentage levy on gas, electric, and telephone bills to be paid along with those bills by utility consumers. While such a proposal appeared to have been sidetracked in favor of other revenue-raising measures, the Connecticut legislature was at this writing still in session with its revenue problems as yet unsolved.

Increased taxes against public utility companies were among several possible sources of new revenue suggested to the New Hampshire legislature by

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a state legislative interim commission on state finances. The commission estimated a revenue increase from about $30,000 to $130,000 could be obtained by revising the franchise tax for public utility companies.

Apparently not being given serious consideration but significant as an indication of the extent to which some utility tax proposals reach was a suggestion by Harry Carlson, unsuccessful Democratic candidate for governor in New Hampshire, that public utilities be taxed an amount equal to their own expenditures for engineering, legal, accounting, and similar services, as a means of producing general revenue and funds to strengthen the state public service commission and the state attorney general's office with more compensation and expert assistance. Carlson proposed a tax of 1½ per cent on the gross revenue of utility companies, which he estimated would yield more than $600,000 to the state, leaving more than a half-million dollars for the state's general fund after deducting the cost of his recommended program to make utility regulation more effective.

ENACTED by the Arizona legislature over Governor Sidney Osborn's veto was a bill directing the state tax commission to make an annual assessment against electric, gas, and water utilities to provide funds for regulating such corporations. The measure provides for an assessment of one-tenth of one per cent on the gross revenues of the utilities, to yield an estimated total of approximately $31,000 a year.

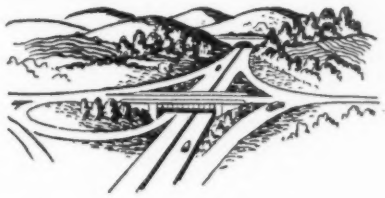
Rejected by the Arizona law mill, however, was a proposal to include telephone and telegraph companies, railroads, and mines in a $300,000 real property tax survey.

Halfway through the New Jersey legislature at this writing was a bill providing a schedule of fees for the filing of documents with the state public utilities commission. Sponsored as part of an administration plan for putting state licensing and regulatory agencies on a self-sustaining basis, the measure calls for fees ranging from $2 for certain annual report forms to $500 for applications for approval of securities or evidences of indebtedness of $1,000,000 or more.

Proposed early in the year by Tennessee Utilities Commissioner Leon Jourolmon, but not acted upon by the now-adjourned Tennessee legislature, was legislation to tax and back tax the railroad cars which nonresident railroads have in the state, and to provide for state collection of escheats from efforts of the state utilities commission to obtain refunds from railroads, telephone, and telegraph companies on rate differences.

Governor Luther W. Youngdahl, in his inaugural address, urged the Minnesota legislature to consider the possibility of securing additional state revenue "from gross earnings of utilities and railroads."

A NATURAL gas tax bill also is pending in Minnesota. A house committee recently approved a 3-cent tax on each cubic foot of natural gas brought into the state, an amendment of a bill which originally called for a 7-cent tax. The 7-cent levy was calculated to raise $2,500,000 a year, so it is estimated that the 3-cent tax, if approved by the legislature, would yield slightly in excess of $1,000,000.



Highway and Air Carrier Taxes

"HIGHWAY and air carriers face the threat of higher taxes in many pending state bills. Proposals for increased levies against motor carriers and other highway users, to raise funds for expanded highway constructions, were introduced in more than half the states and have already been enacted in some instances. Aviation gasoline taxes and other forms of aviation levies, to raise funds for airport construction, also are being sought on a broad scale."

Natural gas taxes also have been issues in several other states this year. Montana's legislature adjourned without enacting a bill which would have required all producers of natural gas in the state to pay a license fee. Distributors in Montana now pay a tax of three-eighths of 1 per cent on each 1,000 feet on natural gas serviced to users.

Killed through committee action in the Kansas legislature was a bill proposing a gross production tax on oil and gas to raise an estimated $6,000,000 in new revenue annually. Utah's legislature adjourned without enacting a special distribution tax of 2 mills per 1,000 cubic feet on natural gas.

The Texas House of Representatives recently approved a bill to tax natural gas gathering lines an estimated $30,000,000 or more annually. The tax levy would be 1.85 cents per 1,000 cubic feet on natural gas carried in gathering lines, excluding that used for manufacturing carbon black or reinjected into the earth. Several other natural gas tax proposals were pending in Texas, but opposition was mounting on the basis that such levies would discourage the location of new industries in the state.

Wisconsin's legislature recently gave final approval to a bill repealing that state's tax of 7 cents per 1,000 cubic feet on natural gas. The measure was regarded as a key part of a program to bring natural gas into the state.

STILL pending in Wisconsin at this writing, however, was a bill to impose a 10 per cent tax on local telephone bills as one of several means of raising revenue to finance a proposed soldier bonus program. The bill was introduced by the house committee on veterans' affairs.

Proposals relating to taxation of publicly owned utilities have been advanced in some states. In Iowa, an interim state legislative tax study com-

mission proposed that municipally owned plants and Rural Electrification Administration lines be taxed on the same basis as private utilities. Rejected by the Indiana legislature was a bill to exempt city-owned utilities from all taxes. They now pay some $300,000 a year in gross income and other state taxes.

Voted down by a Nebraska legislative committee was a measure to change the system under which Nebraska public power districts make payments in lieu of taxes to governmental subdivisions. The districts now make payments based on the taxes paid by the privately owned utilities the year before the district was acquired. The rejected bill proposed that a valuation be placed on the districts' property each year and that they make payments according to the tax levy. The committee turned down the bill on the grounds that it would be an actual tax on the districts' property, which would be unconstitutional.

Bills to put coöperatives on the same tax basis as private corporations were introduced in a number of states this year, as had been anticipated, but none had been enacted into law at this writing. Prospects for the passage of such measures appeared favorable in a few instances, however.

HIGHWAY and air carriers face the threat of higher taxes in many pending state bills. Proposals for increased levies against motor carriers and other highway users, to raise funds for expanded highway constructions, were introduced in more than half the states and have already been enacted in some instances. Aviation gasoline taxes and other forms of aviation levies, to raise funds for airport construction, also are being sought on a broad scale.

Utility companies and their investors also are confronted with a trend toward higher general state taxes. For example, a trend toward expansion by the states in the field of individual and corporate income taxation threatens to sap the benefits anticipated from Federal income tax reduction.

Although 18 states are now without any income taxes, this number would be halved by proposals advanced this year. Of the 30 states already in the income tax field, more than half either considered increased revenue from this source this year or are regarded as likely to move in that direction in the early future.

Confronted with a variety of pressures for greater spending at a time when war-inflated receipts from present revenue sources are expected to decline, the states are searching for added revenues on a broad front. Although many states are sidestepping the issue this year, some through adoption of so-called "nuisance" taxes on "luxury" products such as cigarets, liquor, etc., an increasing number of states are moving toward a choice between general sales and income taxes as sources of new or increased revenue.

TENNESSEE'S legislature this year enacted a 2 per cent sales tax, bringing to 24 the number of states now resorting to such levies. Proposals for new or increased sales taxes were raised in at least 26 other states this year. Although sales taxes are regarded by many revenue experts as offering the most fertile field for state exploitation, political opposition to

such levies frequently counters with income tax proposals based on the familiar "soak the rich" psychology. To offset this, combination sales and income tax programs have been proposed in a number of states.

In an outstanding exception to the general trend in state income taxes, Oklahoma's legislature this year reduced state income taxes one-third. Analysis of developments in state capitals, however, reveals virtually no prospect for similar reductions in any of the other present income tax states, although previously reduced rates are being continued in some instances. That the future life of such cuts may be limited was indicated when Iowa's legislature enacted a bill to continue a 50 per cent reduction in that state's income tax for 1946, payable this year, but to return to the full rate on 1947 earnings, payable next year.

NEW YORK state's legislature also continued a 50 per cent income tax abatement for the present year and a 25 per cent cut in business and corporation levies. At the same time, however, it approved a 20 per cent increase in the present income tax rates to go into effect next January 1st if the voters ratify a proposed soldier bonus bond issue at next November's election.

An income tax increase was enacted by the Arkansas legislature, while proposals for increased revenue from income taxation also were raised this year in Alabama, Colorado, Georgia, Indiana, Maryland, Massachusetts, Minnesota, Montana, Oregon, Utah, Vermont, and Wisconsin, with action still pending in several instances. Similar future proposals loom in Delaware, South Carolina, and Virginia.

NEW income taxes have been proposed this year in a number of states, including Connecticut, Maine, Michigan, Nebraska, New Hampshire, Nevada, and Rhode Island. Although already rejected in some instances, they are still receiving serious consideration in others.

One of the significant developments in pending state income tax legislation is the appearance in a number of states of proposals to shift a greater part of the burden to those in the higher income brackets. The Arkansas measure was of this type, with similar action proposed in Alabama, Massachusetts, South Carolina, and Vermont.

At the recommendation of Governor Ben Laney, the Arkansas legislature enacted a state income tax law revision raising exemptions for single and married men by $1,000, but allowing only half credit for income taxes paid to the Federal government instead of the full credit heretofore permitted. It was estimated that the changes, taken together, will release approximately 5,000 taxpayers from paying any state income tax, but will produce a net increase in revenue from this source of approximately $1,800,000.

Before the Vermont legislature at this writing was a proposal by Governor Ernest W. Gibson for the enactment of a graduated income tax of 1 to 4 per cent. Intended to replace the state's present income tax levied on a flat 2 per cent basis for earned income and 4 per cent for unearned income, the proposed graduated tax would yield an estimated additional $2,000,000 biennially.

ALSO found in pending legislation are examples of efforts to make cor-

porations bear a greater share of income tax increases than individuals. In Maryland, for example, Governor William Lane proposed increases in the state income tax to raise $6,528,000 additional revenue a year, with the rate on individual earned income to be increased from 2 per cent to 2½ per cent, while the rate on corporate income would be upped from 1½ to 4 per cent. If enacted, the proposed Maryland changes would not become effective until next year.

An extreme income tax plan introduced early this year in the Massachusetts legislature would raise an estimated $250,000,000 annually. Designed to replace the present Massachusetts system, under which the state levies a tax of 1½ per cent on all earned income beyond a $2,000 exemption, the proposed legislation would allow a $6,000 exemption and fix a flat tax of 30 per cent on all income beyond that amount. The proposal also would levy a flat 30 per cent tax on the net income of all domestic business, domestic manufacturing, foreign and public service corporations doing business in the state. Such corporations now pay from 2½ to 6 per cent on net income, with no exemptions.

Several states this year have been considering community property laws, to permit dividing the income of one spouse between the husband and wife for Federal income tax purposes, as is already allowed the residents of nine states — Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Oklahoma, Texas, and Washington. Such bills were proposed in Arkansas, Illinois, Indiana, New Hampshire, Pennsylvania, Oregon, Rhode Island, and Colorado, but had not been enacted by any at this writing. A resolution introduced in the South Dakota legislature memorialized Congress to accord such benefits to the residents of all states. Such a bill is now before Congress, with a billion dollars in Federal tax revenue involved.

"THE *officers of a private corporation seeking its own ends find the object of their efforts in the accumulation of business profits, unrestrained by any other law, as a rule, that is to be found in penal legislation. But the objective of business profits is in itself a restraint and a guide to their actions and, above all, a check on extravagant expenditures and on inefficiency. The corporation created and utilized as a government agency, however, operating on a capital for which it has no accountability, and which has been drawn from the public treasury with a prospect of further access to public funds in time of need . . . has none of these restraints; and its objective may depart ever so far from congressional intent without a test or any standard by which its full accomplishment or failure may be measured. These concerns become primarily spending agencies without the restrictions and obligations imposed by . . . invested capital upon private corporations which are to be tested by profits earned.*"

—CARTER GLASS,
Late U. S. Senator and ex-Secretary of the Treasury.

Washington and the Utilities

Gas Men and FPC Curbs

IF the Independent Natural Gas Association is representative of the feeling throughout natural gas business circles generally there will be no letup in the industry's efforts to get some limitation, by statute or otherwise, on the regulatory activities of the Federal Power Commission. This was made very clear by the association's press representative, Louis E. Whyte, in a well-attended press conference in New York city on April 2nd. Mr. Whyte said additional quantities of natural gas would be made available for interstate transportation if definite limits were placed on the regulatory activities of the FPC.

He blamed the FPC for following policies which he said had unnecessarily prolonged hearings on proposals for the construction of additional pipe lines, and thereby contributed to recent shortages of gas. Mr. Whyte declared that one reason for these shortages was the lack of pipe, but another reason was that pipe-line manufacturers have been unnecessarily delayed in getting their projects approved because of long-drawn-out hearings, at which coal and railroad interests have sought to block these projects.

This was directly attributable, he said, to instances in which the FPC had displayed sympathy for control of the end use of gas.

DISCUSSING future supplies of natural gas, Mr. Whyte said the FPC was retarding production in contravention of the Natural Gas Act by imposing accounting requirements on pipe-line operators who produce some or all of their own gas, and this unnecessarily limited profits. As a result of these requirements, he said, "some companies are giving away gas today." The situation, he added, was not conducive to expansion of drilling.

Mr. Whyte charged the FPC with "an attempt to block legislative action" through its recent issuance of a staff report on the nation-wide hearings on gas conservation of last year.

Hydro Projects Face Heavy Cuts

ADVOCATES of expanded public power operations by the Federal government face a systematic program of curtailment on two different fronts, if the views of the House Appropriations Committee prevail. The cuts will be made not only in the proposed budget of Interior Department's Reclamation Bureau but also in the War Department's Civil Functions Bill, which includes appropriations for flood-control projects.

Early in April the Interior Department subcommittee of the Appropriations Committee completed action on that bill, and, although details were not available at the present writing, it was indicated that Interior's budget had been cut about 50 per cent. The subcommittee limited Reclamation Bureau spending to a total of less than $100,000,000, which includes about $42,000,000 in the reclamation fund.

Something new has been added which is not likely to prove too popular with the Reclamation Bureau—that is the earmarking of funds for specific projects. No longer will the Secretary of Interior —as in the days of the old curmudgeon— have any discretion to defy the fiscal discipline of Congress by shifting around

"unexpended balances" to this or that project as he might see fit. In fact it was just such activity by the former Secretary of Interior Ickes, in building transmission lines for which the House had specifically denied funds, that caused the Republican majority to "lay for" the Interior Appropriations Bill on this point. Mr. Ickes got away with it and even managed to work out some fancy legal justification in the form of an ingenious double-talking opinion by former Under Secretary Abe Fortas. But it seems to be making things tougher for Ickes' successor, Secretary Krug, who has never indicated any rebellious attitude on spending money in a manner displeasing to Congress.

WILL the subcommittee cuts hold up as the Interior Bill progresses through Congress? Probably not—not all of them at least. Several of the reductions made in the subcommittee were accomplished by the closest majority and with the spirited aid of the full committee chairman, Representative Taber (Republican, New York). Some of the western members are going to make a spirited fight on the floor of the House.

Just guessing from past performance, it would seem that there is a fair chance that one or two items will be put back into the Interior Department Appropriations Bill on the floor of the House—but, more likely, the restoration of local projects will get sympathetic treatment in the Senate, which shapes up the prospect of another interesting conference committee—a perennial feature.

One feature of the subcommittee version of the bill, which is likely to stand up in the House and which the House will make a spirited battle for—against any elimination in the Senate—is the power division. For several years now Congressmen have been asking questions as to just what this division is doing to justify its existence in view of other public power units in Interior. This year, it looks as if the division will have to take a trimming. The subcommittee thought so anyhow.

A two-sided rebellion is looming against attempts within the Appropriations Committee to cut down flood-control funds in the War Department Civil Functions Bill. An over-all cut of some 40 to 50 per cent was expected in the committee bill. But a determined band of southerners, led by Senator Overton (Democrat, Louisiana), is out to fight these reductions, which would affect local projects, chiefly in the South. Another group has taken a more original but perhaps less hopeful line in trying to get the southern states tucked into the group of western states which now enjoy (by statute) the benefits of the reclamation fund. Realizing that flood-control benefits will increase in the Senate, their idea is to get back some projects via the reclamation fund. Steps to have Louisiana and Arkansas included as reclamation states have already been introduced in Congress. But, with the competition for the diminishing amounts in the reclamation fund growing keener among states already entitled thereto, it looks like a long chance for the southerners to crash this hitherto exclusively western barbecue.

War Secrets Aid Gas Fuels

WHEN the victorious Allied army beat Germany into submission and rubble, American technical experts followed the heels of the triumphant legions almost before the dust of battle had settled. One of the things they were looking for was the secret of how Germany, with only a tiny reserve of gas and oil, was able to keep her war machine rolling for so many months and in such impressive fahion. It was known, of course, that the coal of the Saar basin and other deposits was somehow being cooked into gasoline and valuable by-products.

American technicians brought back a pretty good story and the details are just beginning to unfold. Altogether, it would seem that the German research on synthetic fuel processes was quite brilliant, although the supplemental engineering seemed rather sloppy. Details of these

processes have been made available to industry, and the United States Bureau of Mines is following up in coöperation with American industrial groups. It may well be that the strange fruit of this enemy research will, in due time, bolster the national security reserves of the United States.

Meanwhile, peacetime and civilian uses of synthetic fuels are being developed along lines which American industries have known and understood for many years. But the conditions for developing these processes did not seem propitious until recently.

One of the most spectacular is the joint announcement of the Pittsburgh Consolidation Coal Company and Standard Oil Company (New Jersey) that the first flexible synthetic fuel plant will be built soon. By synthesizing low-grade coal, the plant will supply 400,000,000 cubic feet of high heat content gas to the Pittsburgh area daily in winter (nearly as much as the projected capacity of Big and Little Inch), and half that amount in summer when heating demand is less. The summer production would concentrate on gasoline and by-products.

HIGHEST deliveries of natural gas to the East coast may follow development of such synthetic plants, which would make the new gas available to consumers in the Appalachian region. Many coal mines which have been abandoned because of unprofitable low-grade operations may be brought back into production because the synthetic process can utilize poor deposits of coal and even lignite.

The United States Army, of course, is following these developments with keen interest because of its concern over America's petroleum reserves in the event of another world crisis.

This brings to mind, of course, the well-publicized underground gasification experiments which the Bureau of Mines and Alabama Power Company conducted on the properties of Alabama Power. These experiments aroused so much interest that the resulting tests have caused some disappointments. The reason is that hopes were raised too high that underground gasification might prove an immediate "open sesame" to the exploitation of many coal deposits which could not be profitably mined otherwise. But, actually, the tests from the Alabama experiment are regarded as very satisfactory by those in control of the project. In truth, they would just as soon operate a little more quietly—that is, without the white light of publicity—so as to get their original program of experimentation complete. The purpose of the tests was not to develop commercially usable gas at a practical cost of operation right away. It was to find out more about the phenomenon of burning control or underground combustion. This the experts are finding out and are well satisfied.

Favorable reports have been rendered by similar experiments currently in Belgium and Russia. One Soviet test is expected to yield 100,000,000 cubic feet of gas daily by 1950, say Bureau of Mines officials.

TVA Accounting

THE General Accounting Office has recommended that a definite plan be adopted for repayment of some $400,000,000 invested by the government in power operations of the Tennessee Valley Authority. The recommendation was one of a number set out in a report to Congress on the TVA by the GAO's corporation audits division.

Other recommendations include: (1) that TVA pay interest on the entire government investment in power facilities at the present rate paid by the Treasury (about 2½ per cent) instead of only 1 per cent on $56,500,000 in TVA bonds now held by the Treasury; (2) that power operations be self-supporting and the government investment therein self-liquidating with separate books on power and flood control; (3) that Congress segregate appropriations; and (4) that TVA be given discretion over temporary use of unappropriated funds to meet current operating requirements.

Exchange Calls And Gossip

FCC Quiz under Way

THE long-awaited congressional investigation of the Federal Communications Commission is finally becoming a reality. Representative Charles A. Wolverton of New Jersey, chairman of the House Interstate and Foreign Commerce Committee, dropped House Resolution 165, calling for just such a probe, into the bill hopper last month, and details of the extent of the quiz are now filtering out of the committee. The surest thing to say about the investigation right now is that it will be a long one. Permission has been granted the committee to sit at any time it wants to, whether Congress is in session or not, and any place it chooses in these United States. And the committee is likely to use its privileges all through 1947.

There is a strong possibility that a subcommittee will be appointed, since the diversified duties of this important committee are beginning to clog the wheels of congressional progress. Chairman Wolverton has been trying to get a line on the preferences of his group so as to make the best assignments to subcommittees. This is a ticklish job, mainly because he has ten new Republican members this term on the committee. Obviously he must learn something about his membership before he can put them in positions of authority. Representative Lea, Democrat of California, will probably head the minority side of the FCC subcommittee. In 1944, Lea inherited the remnants of the old Cox Committee which made an ill-starred attempt to investigate FCC during the war. The veteran Californian has been a power in communications on Capitol Hill for many a year. Other assignments are indefinite.

THE probe is aiming at general overhauling of the Federal Communications Act, untouched by legislative hands since written in 1934. Representative Wolverton has already said that the probe will not be a "witch hunt," but there will be more than one skeleton unearthed, particularly from the grave of that earlier probe. It does not appear that the present commission will fare too badly from the House scrutiny. No really loud complaints have been registered against the incumbents by this Congress. But Congressmen remember that, during the 13-year history of FCC, there have been faults found, and the statute as it now stands does not seem to offer adequate protection for the future. General congressional attitude is that the Communications Act needs tightening up—more specific language, sharper delegation and limitation of power, and clarification of FCC's regulatory jurisdiction over commercial radio.

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No Deep Wire Probe Seen

TELEPHONE and telegraph folks should not expect the probe to lead to many changes in FCC's present wire policies, although there may be some agitation to define FCC's control over border-line city cases, where big cities at the edge of one state have heavy telephone connections in both bordering states and are regulated by the states concerned. FCC has attempted to muscle in on these few situations with no success thus far, being slapped down in court years ago. But since FCC keeps trying, some Congressmen want to prevent the commission from doing so once and for all, by

writing a preventive passage into the law.

Incidentally, FCC has encountered nothing but trouble from the Maryland, Virginia, and District of Columbia commissions on its latest try at regulating interstate tolls around and through Washington, D. C. Seeking to avoid a showdown, the Federal commission now is arranging a settlement. Early this year it sought to stay higher rate schedules agreed on by the state commissions. The schedules went into effect and are still in effect.

FCC may pull out of this embarrassing position yet, by working out rules for "coördinated tariff filings."

Another possibility for wire communication men to ponder is that the probe may develop the thesis that a split commission—three men on radio, three on wire service, with the chairman a member "ex officio" of both sections—can do a better job. If this idea turns up as a practical one, a move might be made to completely overhaul the FCC, rip out the present commission, and start all over again. That, of course, is a long-range possibility, but the split commission theory has many backers. It is said to be more efficient, since it can process twice as much work as the 7-man body *"en banc."*

THE scheme was proposed a few years ago, but was fought by the then chairman, James L. Fly, because it stripped him of almost all powers. If the duties and authority of the chairman of FCC were to be increased under a split commission system, it might not be so heatedly opposed by the present chairman, Charles R. Denny. Congress is less likely to cramp Denny's powers than it was to curb Fly's. At any rate, all remedial propositions will get some attention from the committee. Little hope is held for any amendatory bill being created during this session. The real spade work will be done later in 1947, even after Congress has gone home for the year. Legislative overhauling will actually be undertaken at the next session, some time in 1948.

Western Union Still on Spot

IN the face of the oncoming congressional question bee, and despite assurances that its budget will be sharply cut, the Federal Communications Commission is busily preparing for its projected study of the telegraph industry. FCC asked for $375,000 in new appropriations for this task, but, at last report, congressional appropriators had snipped this item off for keeps. It is hard to conceive of probe-minded Congressmen approving funds for an investigation to be conducted by the investigatee. In the absence of this budget fund, FCC may muddle along on its program of sounding out what is wrong with Western Union. One phase of the commission's probe was to be a check up on telegraph delivery service. The frequent use of the telephone in delivering messages has been slated for a thorough review for some time. Thus FCC would be examining Western Union's service at both ends of the line, since its local sending policies are already on the carpet. How far either of these investigations can go without new cash from Congress is debatable, but the guess is—not very far.

Rate Requests Get Yes and No

THE old problem of "original cost" won another decision over "fair value" out in Illinois recently. The Illinois Commercial Telephone Company had gone to the Illinois Commerce Commission for a 25 per cent rate increase, and presented its case by using as rate base evidence the structural value of its property. Roughly, structural value corresponds to the reproduction cost (presumably at present prices) of the telephone company property. But the commission turned the company down and substituted "original cost" valuation. Under this method of rate base determination, the commission regarded present rates as reasonable. The company is seeking a rehearing on its application.

But the rising cost of operation pre-

vailed in the judgment of the South Carolina Public Service Commission, when it granted a rate increase to Southern Bell Telephone Company, amounting to $490,000 in annual revenue. The commission advised the company that the rate hike should be considered only temporary, and subject to later investigation and review by the commission. To help along this later review, Southern Bell has been required to report monthly to the commission its average investment, operating revenues, and the number of stations it operates. This later investigation also will probably include consideration of the study now being made of Bell's Long Lines Department by a committee of state commissioners from seven southern states.

Push-button Telephony Coming

THE spring telephone strike threat, which seems to be an annual affair, has hurried along the Bell system's research program in attempting to find new mechanizing processes. Telephone men figure that the more mechanized telephone service becomes, the less the nation has to fear from telephone walkouts, as far as public health and safety are concerned. Telephone experts are reported well on their way to success in experiments which would permit dial service on long-distance calls. Tremendous development of automatic service through the use of the coaxial cable may be just around the corner, say technical staff men. When it comes, the impact on telephone personnel may well be terrific. There are more than 100,000 workers in various branches of the long-distance telephone service.

Then, too, there are reports of a new type of mechanical accounting tape, which records every call and totals up each customer's bill with the flick of a switch. When new mechanization methods are ready for public use, it will be a new problem for management and unions to shift these workers to other departments. Bell officials insist that more automatic systems will not necessarily mean reductions in workers, and the unions will certainly fight to see that there won't be. Still, if fewer employees are required in operating capacities, future labor disputes can be carried on without any real threat to disruption of the nation's business and personal life. It will, of course, take a weapon out of union hands, but individual states and perhaps even the Federal government are already taking steps to abridge the right to strike of employees in vital industries. By removing the bulk of telephone workers from the "vital" category, their right to strike can be returned to them. It's a thought, anyway.

Telephone Neuroses Noted

SOMETHING new has been added to our list of distinguished mental aberrations, now quite fashionable to these hectic times. The medics call it "telepsychoneurosis" and it is perhaps best described as telephone buck fever. But it seems to affect different people different ways. Early in April it produced in this country an epidemic of "emergency" patients, who reported all sorts of strange hallucinations in order to get a telephone call through a strike-bound switchboard. Just when telephone service was at its nadir, the matters of "life and death" reached their zenith.

This "emergency" plea was invoked to get down a wad on a "sure thing" at the Bowie race track, to round up the girls for a coke and sandwich at the drugstore, and to see if hubby really was working late at the office. Emergency service also managed to take care of emergencies. Some deeds of telephone customers were noble and fine; others were not. Harried emergency operators reported world records were set in the number of stricken relatives, blessed events (one to five arrivals per parent), and million-dollar deals which needed only telephone confirmation. Refusals of patently phony emergency requests were greeted with some hysteria, sometimes profane. Diagnosis of the mania was simple, but prevention and treatment were difficult.

Financial News and Comment

By OWEN ELY

Preferred Stock "Stubs"

It is becoming the practice in utility holding company integration plans to postpone the decision as to whether the preferred stockholders should receive redemption premiums. Preferred stockholders may advance the argument that charter or other contract provisions do not apply, since the corporation is being dissolved (or the preferred stock retired) under the mandate of the Securities and Exchange Commission and the Federal court, rather than under ordinary corporate procedure. Counsel and other representatives of the preferred stockholders are making increasing use of the "investment value" theory; *i.e.*, they argue that the stock would normally be worth more than par under present market conditions and that the holders should not be penalized by being given only the par value (plus arrears if any).

The SEC, recognizing that the issues involved have not been fully threshed out in the courts, has adopted the "stub" idea as a means to expedite dissolution procedure without waiting for the lawyers to carry the issue over premiums to the Supreme Court. Thus "stubs" have been given to the Electric Bond and Share Company preferred stockholders and are contemplated for American Water Works & Electric Company, Engineers Public Service Company, etc. However, in the Engineers Case, the opposing legal groups representing the common and preferred were unwilling to agree on the use of "stubs" (plus an escrow fund) and some highly technical issues have been raised, which the Federal court is now considering.

In the case of Electric Bond and Share stubs the company has now filed Plan II-B with the SEC, claiming that "the payment to preferred stockholders of more than $100 per share, plus the amount of accumulated dividends, would unjustly enrich such stockholders at the expense of common stockholders." The arguments advanced by the company may be briefly summarized as follows: (1) The liquidation of a substantial part of the company's portfolio (when completed) will in effect liquidate the present business and require organization of a new business with the remaining assets; hence preferred stockholders under charter provisions should receive only $100, whether the liquidation be considered voluntary or involuntary. (2) With respect to investment value, the company's earnings during 1942-45 were insufficient to cover the preferred dividend requirements. (3) In paying $100 to preferred stockholders, the company has repaid them by an amount greater than the amount of capital which they originally contributed, while the equity of the common stockholders amounts to a fraction of the total contributed by them.

The Importance of Accounting Policies

The security buying public is seldom aware of the importance of accounting rules and policies in relation to security values. And this applies with special force to public utility securities. During the 1920's, unfortunately, standards were lax with respect to depreciation appro-

priations and reserves, and property accounts were frequently written up on transfers of ownership.

But the investing public may not realize the extent to which the pendulum has swung the other way. Depreciation charges in some cases now appear to be excessive, if the rapid growth of reserves is any indication. Plant accounts in many cases have not only been written down to cost of acquisition but (by amortization or arbitrary write-offs) are being further amputated to "original cost when first devoted to public service."

The accounting policies adopted by Federal and state regulatory bodies not only regulate the method of accruing and reporting utility earnings but may also have a direct bearing on utility earning power through the medium of the "rate base." If the commission having jurisdiction over the rates of the utility in question decides to accept original cost less depreciation (plus allowance for working capital) as a rate base, this may mean that part of the investment has been confiscated. A theory was developed in Washington during the 1930's that the investor's interests should be sacrificed to those of the consumer. The old idea that rates and earnings must be adequate to "attract new capital" has only been kept alive because the state commissions, to a considerable degree, have refused to follow the lead of Washington and fix rates on the basis of "original cost," retroactive straight-line depreciation reserves, special treatment of the reserve as the property of the consumer, and a rate of return geared to declining interest rates. Had all these theories developed by the Federal commissions been rigidly applied with respect to rate regulation by the state commissions, the earnings of the average utility company would be considerably lower, and equity financing would have been deferred.

REGARDLESS of the effects of accounting policy on actual earnings, it is important that investors should not be misled by the form in which the earnings statement is set up. It has always been a policy of the accounting profession that, so far as possible, abnormal and nonrecurring changes should be relegated to the profit and loss account or balance sheet, while the income statement should reflect as accurately as possible the "normal" current earnings. Yet the SEC, in its treatment of special amortization items and resultant savings in Federal taxes, has tried to maintain its theory that the income account is strictly an historical record of the year's transactions and that no adjustment is desirable.

The novel theories and arbitrary policies adopted or advocated by the Federal commissions in recent years might have proved as much of a handicap to the utility companies as were the loose and inadequate standards of accounting employed by holding company promoters in the 1920's. In those days share earnings were overstated in relation to capitalization in order to sell new securities; nowadays earnings are sometimes overstated in relation to the investment so that rates can be cut. Both ways the investor suffers.

The modern trend in utility accounting has been well described and documented by George O. May in an article titled "Authoritative Financial Accounting" in the *Journal of Accountancy* for August, 1946.

He attributes some of the current difficulties to conflicts of opinion and policy between the different Federal agencies.

It is unfortunate that each commission usually has an "axe to grind" just as the early promoters had. Until accounting regulations are freed from these special motives and regulatory crosscurrents, investors must continue to read "between the lines" and interpret accounting statements in the light of these special considerations. Greater coöperation is necessary between the legal and accounting professions. As Mr. May states:

> The whole concept of the nature of capital stock needs reconsideration. Few, if any, of the corporate laws of our states rest on a sound understanding of modern accounting . . . Regulatory bodies, too, have an important part to play. But accountants believe that new rules or procedures should first win

the approval of those whose authority rests on professional skill, experience, and judgment, and that the function of those whose authority rests upon law should normally be exercised to encourage the adoption of and, in due course, to assist in the enforcement of principles and procedures which have secured that approval.

Recent Prospectuses Include Essential Share Figures

REFERRING to our comment on prospectuses in a recent issue of this department, pointing out that share earnings figures and ratios were not supplied, some of the more recent prospectuses have proved helpful in this respect. Thus the prospects for Cleveland Electric Illuminating Company gives a 9-year record of share earnings and a 10-year table of dividend payments. The red-herring prospectus for Atlantic City Electric Company common stock shows total earnings and dividends on common stock averaged for three periods: five years, 1942-46, ten years, 1937-46, and twenty years, 1927-46. However, no attempt was made to *pro forma* the figures for earlier years.

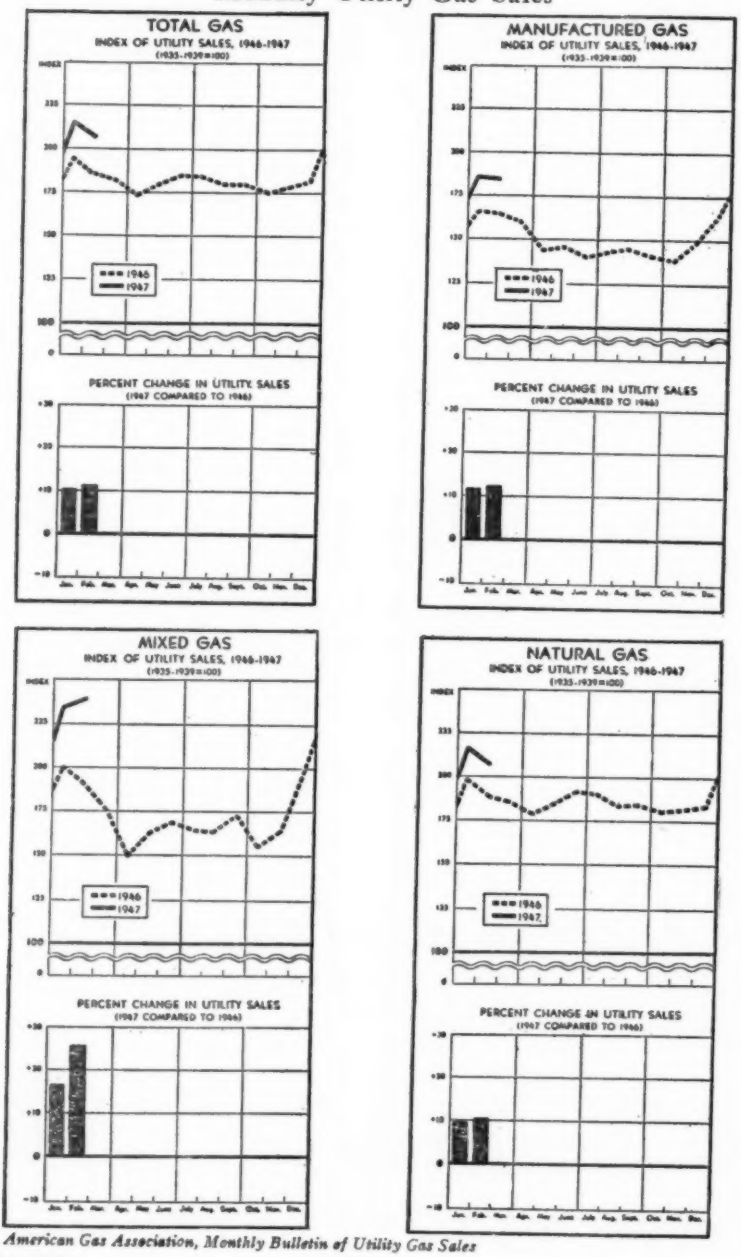
The red-herring prospectus for New England Gas & Electric Association gives share earnings on the common stock in eight different ways, the figures ranging from 96 cents to $1.37. They are stated on a consolidated and parent company basis, and in each case are reported with and without the Maine and New Hampshire subsidiaries (which may be separated); and each of these four results is reported both before and after sinking-fund requirements. Such information is of special value in appraising the stock, which is currently selling 10¾ compared with the price of 9 at which rights were offered. In the red-herring prospectus on South Carolina Power Company common stock, earnings and dividends per share appear at the bottom of the summary of earnings.

PUBLIC UTILITY SECURITY OFFERINGS IN FIRST QUARTER OF 1947

Date of Offering	*Moody Rating*	*Security*	*Amt. (Mill.)*	*Offering Price*	*Principal Syndicate Head*
		Bond Issues			
1/22	A	N. Y. State Elec. & Gas 2⅝/77	$ 13.0	$102.88	Halsey, Stuart
Feb.		Canada Elec. 1st 3¼s/67	1.5	101	Royal Securities
Mar.		Bell Tel. of Canada 1st 3s/77	35.0	102.50	A. E. Ames
3/18	Aa	Cons. Edison 1st & ref. 2⅞/82	100.0	102.85	Morgan Stanley
Mar.		Lower St. Lawrence Pr. 1st 3½s/65	1.0	100	Gairdner & Co.
3/25	Aa	Amer. Tel. & Tel. deb. 2⅝/82	200.0	100.75	First Boston
3/27	Ba	Citizens Utilities 1st & coll. 3½s/72	4.5	103	Lee Higginson
3/26	A	Southern Counties Gas 1st 3s/77	6.0	107.50	Halsey, Stuart
		Preferred Stocks			
1/16		*Birmingham Elec. 4.20% pfd.	$ 4.5	$100	First Boston
Jan.		Seymour Water 5% pfd.	.2	26.50	Smart & Wagner
Jan.		North Pittsburgh Tel. 4½% pfd.	.2	100	
2/4		Southwestern Assoc. Tel. $2.20 pfd.	1.6	50	Paine, Webber
2/6		N. Y. State Elec. & Gas 3.75% pfd.	15.0	102	Harriman Ripley
2/11		*Northwestern Pub. Serv. 4½% pfd.	2.6	107	First Boston
2/26		Southwestern Pub. Serv. 3.90%	2.0	102	Dillon, Read
3/25		Delaware P. & Lt. 3.70% pfd.	5.0	102.77	First Boston
		Common Stocks	*No. Shares (000 Omitted)*		
1/22		Frontier Power	119	$ 10.00	Sills, Minton
1/30		Central & South West Corp.	1,342	12.00	Lehman Bros.
2/11		Northwestern Pub. Serv.	410	13.50	First Boston
3/6		Central Elec. & Gas	125	9.50	Paine, Webber
3/6		Oklahoma Gas & Elec.	140	39.50	First Boston
3/12		Mountain States Pr.	141	34.50	Blyth
3/12		Northern Indiana Pub. Serv.	383	18.75	Blyth

*Public offering of balance of issue after exchange offer.

Monthly Utility Gas Sales



American Gas Association, Monthly Bulletin of Utility Gas Sales

What Others Think

Big Business Organizations—Are They Man's Greatest Invention?

IN a talk on "Modern Business Giants," at Allegheny Colloge, Meadville, Pennsylvania, recently, A. W. Robertson, chairman of the board, Westinghouse Electric Corporation, gave an illuminating picture of the contribution of this type of free enterprise to national unity and better living.

Prefacing his remarks with these words, "The giant sequoias of business grew big and strong because the economic climate of the past three generations favored such growth," and following a brief comment upon isolated examples of big business in past centuries, he stated that

> The first evidence of big business organization in America is to be found in our railroads and telegraph and telephone companies. As invention and development of things susceptible of human use progressed, business developed to make use of them; or, truer stated, business expanded to make the newly invented thing or service available. No business ever grew unless it was furnishing something the people wanted and were willing to pay for. In the early stages it was necessary to go through a long period of pioneering education before anyone knew of a new service and had any use for it. It always started as an expensive luxury, developing into a daily necessity familiar to millions of persons. Any other road did not lead to bigness.
>
> With the development of better transportation of goods and people through the railroads, and of communication of thoughts and words through the telegraph and telephone, the setting was right for the growth of nation-wide business. New scientific knowledge stimulated invention. New ideas sprang up like mushrooms. Material for the more abundant life multiplied at an unheard of pace. As man climbed higher on new things his horizon broadened. It was a colorful period of life that most persons thoroughly enjoyed. Each individual was a part of an expanding universe. The old order was breaking down on all sides, yielding place to new and better ways.
>
> This new system of providing special goods and services for the world developed at fantastic speed and soon dominated our civilization. As each new thing was developed, the way of life of people changed and they found other needs which other people were able to make and supply. And America, the home of big business, the land of plenty with more and more of everything in fantastic extravagance, became the envy of the world. Immigrants poured in. It was inevitable that, in such an atmosphere, people of superior managerial ability should develop superior organizations to furnish things that the growing needs of the people demanded and were willing to pay for. Undoubtedly, if increase in the standard of living is a fair measuring stick, the public got value received; and the maker of the product, through improvements in his manufacture and organization, was able to sell it at a profit.

To point up his observation that "the modern big business organization is perhaps the most unusual and greatest of man's inventions," Mr. Robertson said:

> . . . Edison is honored as the inventor of the electric light, the one source of illumination without danger of fire, but that invention would have been of no use to you without the business organization which brings it into your home and factory. A business organization is the only known means of bringing inventions and knowledge to you. Some speculate that government could do it, but government never has.
>
> The schoolboy might be able to learn about electric energy—how it functions; what are good conductors; what are good insulators; how to make a generator and a motor; how to switch it on and off and control it—but if a man should spend his whole lifetime trying to make these products, he wouldn't be able to produce more than a flicker in the way of an electric lamp even for his old age, let alone for his youth. Only by the work of a highly skilled and specialized organization can you have your electric bulb.
>
> Modern business organization has grown out of the wealth of products and services which knowledge has made available for our use. Big business has made the furnishing of these things its job. Without these products and services, there would be no use for big business organizations, so there would be no such organizations.

Then, speaking of the present form of a typical large business organization, with its complex setup of many departments, the Westinghouse Electric chairman called attention to an odd characteristic of a smoothly functioning business organization; that is, the number of people employed to supervise and direct others. He remarked that, generally speaking,

> . . . More workmen are employed to plan, direct, supervise, and record the work of others than there are men engaged in productive work. On the surface such an organization would seem to be top-heavy with overhead expense and yet, with this combination of productive and supervisory labor, many times greater results per individual worker are achieved than under unsupervised conditions.
>
> A good organization must be permeated by good will. No complicated modern organization could function as an army of reluctant and rebellious slaves. The workman in an organization is controlled in part but he is also free to use his initiative. When these two forces—control by management and initiative of worker—are in happy balance, the organization runs smoothly. Too much of either control or freedom of initiative causes friction and loss of efficiency.

COMMENTING upon the spirit of antagonism which has developed on the part of the public toward big business and its growth, Mr. Robertson made these revealing statements:

> Big business in the vigor of its early youth and sturdy manhood took everything in its stride, voting itself a benefactor of the human race because everything it did was obviously eagerly taken by the public that demanded even more. Under such conditions it was perhaps natural that big business should overlook the growing hostility of those adversely affected by its growth. It was, perhaps, inevitable that as business got bigger the little organizations, being stifled or completely ruined by big business, should raise their voices in protest until the protest became an angry chorus that completely drowned out the sales talk of big business. The public continued to support big business by buying and using its products. At the same time the inconsistent public condemned it for the injury being done to the small competitor. In the public press little business is protected. Big business, which is only little business grown up, is condemned.
>
> As a result of the rising chorus of protests from small business, the public attention was attracted to the evils of big business, and its good qualities, taken as a matter of course, were overlooked.
>
> College professors and economists took up the study of big business and found almost unanimously that it was evil. This is a literally true statement. Big business, that had grown big because it served the public well, was found by them to be an economic and social evil. We may search the pages of the books of our schools and colleges in vain for any defense of big business or anything that approaches an intelligent understanding of what big business is.
>
> Life contains no greater paradox than the popular antagonism to big business. The average man made business big. Big business caters to his tastes; makes the cigarets he wants; carries him where he wants to go; carries his burdens; and yet the recipient of all these gifts fights the giver, big business, at every turn.
>
> Even though the sequoias have survived thousands of years of storm and stress, if the climate became definitely adverse, they would die. So it is with big business. It has thrived and is thriving; but if the social climate becomes adverse enough, it too may die. Big business is a natural growth. Bigness cannot be produced by executive order and, in a very true sense, the service of big business is not possible from a bureaucratic source. The attendant of the Standard Oil Company may wipe off your windshield, but would a government official?

AS to the fundamental characteristics of a big organization, the speaker declared that it is the best example of coöperation to be found among men. An organization, he commented,

> . . . brings together men of different talents to contribute something in which each is particularly qualified to the efforts of the whole.
>
> The big organization enables a group of skilled people to unite and contribute their combined knowledge to a common cause. This multiplies the chances of success. This speeds up the process of invention and discovery and undoubtedly explains in part the remarkable progress made in America by and through business organizations. For America, we must remember, will be known in history as the place where business first flourished. Whatever we are as a people, business has much to do with it.
>
> As men learned to make things in factories, they also learned to do them more swiftly and with less effort. Machine tools of a bewildering variety were installed to do the labor which men had formerly done. The final result was that less labor was required to do a standard job. Consequently the prices of products went down or better products were furnished at the same price.
>
> Out of this grouping together of skilled

men has grown the great research laboratories of big business from which improvements and new ideas flow daily. It is significant that these laboratories of the modern world are to be found in business organizations and in the universities.

The big organization is a product of a few conspicuously superior people. In the old days a superior man was limited in his efforts. . . . There was no way in which his ability could be multiplied beyond the borders of the parish. Not so with ability in the big organization. Here, the able administrator finds ways and means to multiply his efforts by the efforts of thousands who are able to help him. Henry Ford, General Eisenhower, or other leaders are examples of able men, moving in fields of vast scope, creating the first low-priced automobile, and doing innumerable other things to advance human affairs.

In closing, Mr. Robertson spoke of certain significant contributions of big business to the national economy and to the people as a whole. He concluded with the following statements:

Big organizations assist national unity. It is good that the people in California can buy and use the same things as the people in New York. It is good that the people in Florida can buy and use the same things as the people in Michigan. There may be no proof of this, but I hazard the conjecture that without national business organizations we would not be a nation extending from the Atlantic to the Pacific. We would be a provincial people, quarreling among ourselves.

Big business is law abiding. It does not violate the law with impunity. Sweatshops are seldom found under the cloak of big business. Big business is sanitary. Big business is a good place to work and young men seek employment with a large organization.

Big business is humanitarian. It started pensions long before the national government discovered that the voters needed protection in their old age. Big business has long carried life insurance for employees to assuage the sorrow and grief that follow death. Big business has developed safety to a point far beyond anything known when all business was small.

In these days when there are constant threats to do away with big business organizations, it is heartening to read the fundamental truths about them, so clearly set forth in this address. Statements of this nature are a real contribution to an intelligent understanding by the public of basic factors in this nation's economic life. Such information, if made widely available, should aid in the preservation of free enterprise.

—R. S. C.

Bonneville Power and Labor

THE arrangements which the Bonneville Power Administration has worked out with its employees in an endeavor to provide for amicable labor relations were described in the October, 1946, issue of the magazine *Survey Graphic*. The article, by Otto S. Beyer, a consultant on labor relations in the field of publicly owned and operated utilities, goes into some detail as to what this agency has done "to tackle its labor problems along new and realistic lines."

The Federal civil service laws, to which Bonneville employees are subject, do not apply to "laborers, mechanics, and workmen." Mr. Beyer stated:

Most of the craftsmen employed by Bonneville are recruited from the Washington and Oregon labor markets, which center chiefly in Seattle and Portland. For many years the skilled trades workers of these markets have relied upon collective bargaining with their employers to fix rates of pay, hours, and working conditions. As a result craftsmen drawn into the service of Bonneville were pretty thoroughly imbued with the traditions of labor unionism, especially the right to organize and to negotiate labor agreements. . . .

As time went on these skilled craftsmen began to ask why they could not confer with management at Bonneville through union representatives just as they were accustomed to do with the managements of the privately owned and operated power systems of the Northwest. It did not make sense to them that the Federal government, which encouraged other employers to bargain collectively with their employees, should not be willing to use this same method, especially in public enterprises which were in active competition with private undertakings. This critical attitude was aggravated by other factors in the situation.

Further, Bonneville's competitors, the private power companies and the transmission line contractors, were quick to remind

the unions and their leaders that government practice, on projects such as Bonneville, stripped wage earners of the benefits of collective bargaining. If permitted to grow, "bureaucracy" would make union membership unnecessary and union leaders superfluous.

MATTERS developed in such a way, it appears, that Bonneville Power Administration had two alternatives—it could let the situation drift, until the employees forced the issue; or, before things grew critical, formulate a policy, and invite its employees through their labor representatives to try to work out healthy relationships. Of the two approaches, Mr. Beyer commented, Bonneville wisely chose the latter.

At the invitation of Bonneville Administrator, Dr. Paul Raver, the Columbia Power Trades Council (AFL) in January, 1945, sent a committee of five, prepared to speak for the 50 local unions identified with it, to discuss with a Bonneville committee what should be done to put labor relations on a sound basis. At this first meeting the two committees decided that each should prepare a written statement, setting forth its ideas on the working relationship between Bonneville and the employees. As to this procedure, Mr. Beyer remarked:

> The novelty of this method of clearing the ground appealed to both sides. The usual practice is for labor representatives to submit proposals or demands for the consideration of management representatives, who in turn cautiously put forward counter-proposals. Negotiations all too often go forward in an atmosphere of mutual suspicion and distrust.
>
> The preliminary exchange of written propositions altered the whole tenor of the procedure. It dispelled any doubt on the part of the unions as to the readiness of the Bonneville Administration to work out wholesome relationships. Discussions and conferences proceeded, not as if labor was trying to pry something out of a reluctant management, but rather as if both were faced with a common problem: how best to define, establish, and carry on their future relationship so that the interests of employees, management, and the public would be effectively served.

After four months of deliberations, an agreement was arrived at and formally executed on May 2, 1945. The chief concern of the basic scheme was as follows:

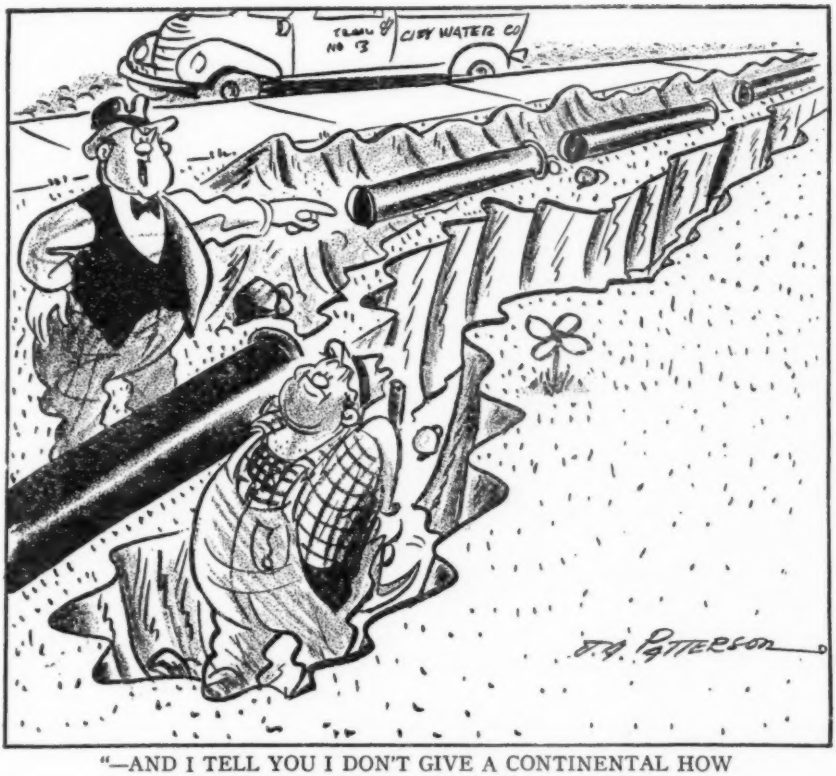
> . . . to establish conference and consultative machinery and procedures for the purpose of determining fair and reasonable rates of pay, hours, and working conditions. Further, it seeks to help employees better their working conditions, especially through stabilization of employment, and to increase their efficiency and responsibility; to adjust promptly all differences between labor and management; to strengthen labor-management coöperation; and to aid in reëstablishing former servicemen as Bonneville employees.
>
> Except in a few particulars, the agreement is a statement of policy and procedure rather than a schedule of fixed labor standards. Rates of pay, working rules, and the like, where not set by law, are left for determination by methods established under the agreement.

ON rates of pay, for example, "the agreement provides that once each year, but not more often," Mr. Beyer disclosed,

> . . . the administrator or the council may notify the other in writing that a conference is desired to consider the need for reviewing any or all existing rates of pay. This notice must be acknowledged within ten days and a date set for the preliminary meeting. If this meeting decides on formal negotiations, conferences must get under way within thirty days.
>
> Meanwhile, joint fact-finding committees are to be set up to establish facts bearing upon the determination of wage rates. . . . These facts are to be given due consideration by the negotiators.
>
> If the conferees are unable to agree, they will call in a mediator from a standing panel of five. Should the mediator in turn be unsuccessful in bringing the parties together, then each agrees to designate an arbitrator. These two arbitrators, with a third chosen by them or appointed by the mediator, will proceed to settle the issue by arbitration. Both parties are bound to abide by the arbitration award.

These features of the agreement, observed the writer, have a special significance in the light of the document's opening paragraph, which recognized that

> . . . the Bonneville Power Administration is an agency of the sovereign government of the United States; that officers and employees of Bonneville must comply with all applicable Federal laws, executive orders,



"—AND I TELL YOU I DON'T GIVE A CONTINENTAL HOW SENTIMENTAL YOU ARE ABOUT FLOWERS"

regulations, and policies. And, this being so, the parties agree that, pending the adjustment of any issues arising between them, there will be no change in the terms of any previous written understanding applicable to the issue, nor will there be any stoppage or interference with the progress of work by the employees.

Thus, so long as the agreement remains in effect, no situation can possibly arise warranting work stoppages or strikes by the employees or their unions. On the other hand, the Bonneville agreement provides for the prompt adjustment of any sort of difference or dispute, including issues of union jurisdiction. Short of legal prohibition, this probably is as effective a way as can be devised to prevent strikes in the public service.

As to the general effects of the agreement upon the Bonneville labor situation, it was reported by Mr. Beyer that

The tendency for individual Bonneville workers and for local labor leaders to find fault with Bonneville supervision and administrative decisions as to whether new construction work should be done by "force account" or by private contractors has subsided. At the same time, the attitude of the employees as a whole and of their labor spokesmen toward Bonneville as a public power undertaking, has steadily improved. This in turn has supplied the answer to the real test of a labor agreement posed above. The attitude of Bonneville labor spokesmen and supervisors towards one another has become wholesome and constructive. It is no longer critical.

THE matter of adjusting wages had long been held in abeyance, so attention to the employees' wage scale was considered of immediate moment as soon as the basic agreement was out of the

way. Regarding this, the writer asserted:

> . . . Machinery for joint wage negotiations and fact finding prescribed by the agreement was promptly set up and put in motion.
>
> The findings of a wage study, undertaken in connection with these negotiations, became the basis for revising pay rates and classifications to bring them into line with those in the Washington-Oregon labor market. This was not a simple matter. Rates of pay in the Northwest vary from community to community, but it is distinctly to the interests of Bonneville to have uniform wage rates throughout its territory. Thorough discussion led to a series of reasonable compromises on both pay rates and job classifications, and a wage schedule was finally agreed to and attached to the basic agreement.
>
> This was completed early in August, 1945, at the time of the Japanese surrender. Shortly after, it will be remembered, orders went out to eliminate overtime on all government-financed or -operated activities and to get back to the basic 40-hour work week as quickly as possible. . . .
>
> Along with all other Northwest industries, Bonneville had been working an extra day at overtime rates. The matter of how best to meet the new situation was discussed by the representatives of the Columbia Power Trades Council and the Bonneville Power Administration, and an understanding was soon reached. This provided that, if and when overtime was eliminated, Bonneville would be guided in compensating for loss of overtime earnings by the adjustment agreed to between the Northwest's power industry generally and the unions having members among its own employees. . . . By early fall the appropriate industry-wide determinations had been made, and in October, 1945, Bonneville and the Columbia Power Trades Council adopted these and converted to the 40-hour work week without a hitch.

Other problems presented themselves for joint attention, Mr. Beyer noted, brought up from one side or the other of the conference table. Among them was the question of the day-by-day working rules of the various skilled crafts in the service of Bonneville. These, it appears, "had long been in need of revision because of fundamental changes in basic working conditions." He added:

> The process not only of formulating but of revising such rules is not a simple one. In either case, an orderly method of enlisting the experience and judgment of the people who must work under these rules is very helpful. Again, the conference and consultative machinery of the Bonneville agreement greatly facilitated this process. The rules of several of the 15 crafts concerned, such as those of the electrical workers, have now been streamlined and others are in the process.

It is commented by Mr. Beyer that throughout the process of arriving at these various understandings "one fact is of outstanding significance," and that is:

> . . . while the Bonneville agreement provides for mediation and arbitration in the event the council and the administration cannot get together on their own account, to date it has not been found necessary to invoke either. In other words, the attitude of the spokesmen for both labor and management, and of their constituents, has become such as to facilitate the most healthful method of all available to employers and employees in the determination of labor standards — direct conference.
>
> The Bonneville agreement and the experience under it have demonstrated what TVA already had shown; namely, that constructive labor-management relationships are as feasible in the public service as they are in private industry. They demonstrate further that, where such group relationships are honestly accepted, they make for harmony, good will, and coöperation, just as they do elsewhere in industry.

In closing, Mr. Beyer said that the Bonneville labor developments show that constructive arrangements between public employees and their labor unions serve the same purposes for a public activity which collective bargaining and jointly negotiated labor agreements serve in private enterprise.

—R. S. C.

Regulatory Licensing to Curb Utility Strikes—Dorau

A PROPOSAL to license public utility employees by state public service commissions to prevent strikes and protect the public's interest in utility labor dis-

putes was advanced recently by Professor Herbert Dorau of New York University.

Dr. Dorau, who is professor of economics and chairman of the department of public utilities and transportation of the university's School of Commerce, made his suggestion after an intensive study of last fall's 50-day Chicago bus strike. The Chicago dispute was finally settled after an all-night session by a member of the Illinois Commerce Commission acting as mediator.

Professor Dorau's suggestion is contained in a study published in two successive issues of *Bus Transportation*, beginning in the March issue.

Commenting upon the functions of the agencies set up in the various states for the regulation of public utilities, Dr. Dorau pointed out that they "are called upon to regulate only a portion of a utility enterprise." He continued:

> It is reasonable to expect that the employees as well as the management of a public utility should have some of their rights as citizens counterbalanced by their obligations as public servants.
>
> A public service operates under a certificate issued by the utility commission. There is no reason why employees of a utility industry should not also be subject to some of the conditions of a license.
>
> If it is considered a breach of law for a utility company to disregard the public welfare, the same yardstick should be used in appraising the behavior of its employees' organizations. Licenses should be issued with the condition that employees could not, with impunity, resort to strikes before all other means have been exhausted.
>
> Provision should be made whereby any infraction, minor or major, would expose the licensee to a citation before a utility commission to show cause why his license should not be revoked. The opportunity to appeal to a higher tribunal should be assured and protected.

Professor Dorau urged that utility commissions be studied "with a view to broadening their scope and authority so that they may deal authoritatively with labor-management disputes within the realm of public utilities." He then added:

> The proposal should be referred to state legislatures with suggestions to design suitable legislation to empower utility commissions to deal with labor disputes.
>
> The point to be stressed is that the main objective (protecting the public's interest) is not served by waiting until a strike has been called, but by employing authority to prevent strikes. Legislation aimed at settling strikes will fall short of the mark, and utility commissions will meet the pitfalls of other agencies.

In the opinion of Dr. Dorau, the utility commissions are in a unique position to serve in labor disputes in the industry. He noted:

> A neutral arbitrator is nearly always unfamiliar with conditions in the industry, else one side or the other would not consider him acceptably impartial.
>
> Utility commissions are the only public agencies which have or could reasonably get an understanding of the matter. It seems absurd that any casual arbitrator should be expected to become conversant during his short round of duty.
>
> The consequences of dispute settlements rest ultimately on the people. Those who render these important decisions must be ready to justify their conduct to the people over a period of time in which the consequences will become evident. Those who render these decisions in behalf of the people must be prepared to stand by and face the consequences, as no temporary arbitrator can or will.

Professor Dorau said that the many proposals for labor legislation had made it clear that there is no universal formula that will preserve the rights of workers, insure industrial peace, and protect the public interest. He observed that

> Friends of labor are concerned as to whether the present wave of proposed public action in general will go too far. If the treatment is uniform it will no doubt go too far for some classes and not far enough in application to other industries and vice versa, if not too far in some then obviously not far enough in others.
>
> All of the reasons why public utility industries are singled out for special regulation and a unique status under the law are good reasons for dealing separately and differently with utility labor.
>
> Organized labor in general does not have the same public responsibility as has labor which has knowingly devoted itself to essential public service. It hardly seems necessary or desirable that in the effort to find a more workable balance of rights and duties for labor in general, the larger responsibili-

ties of public utility labor should be imposed on all labor.

The solution in the case of public utilities must operate to prevent strikes; machinery to settle strikes is not a sufficient protection of the public interest in public utilities.

THE detailed study which has been made by Dr. Dorau, ending in the suggestions quoted above, is a timely contribution to this subject. While the steps recommended are in the nature of an innovation, yet the practical advantages which should result—were *all* public utility regulatory problems under the jurisdiction of one established and experienced commission—would seem to favor serious consideration of such a plan.

Various phases of this question were discussed in an article, "Should State Commissions Regulate Utility Labor Relations?" which appeared on page 352, in the March 13, 1947, issue of this magazine.

It seems likely that Dr. Dorau's intensive survey and studied observations will stimulate added interest in the subject.

—R. S. C.

Strikes in Public Utilities

"OF all the weaknesses and abuses that experience has revealed in the collective bargaining process, the most intolerable is the use of the strike weapon in industries whose uninterrupted operation is indispensable to public health and safety. Railway and public utility employees have the legal and nominal right to strike. When they attempt to exercise this supposed right, however, they and the rest of the nation are immediately confronted by the fact that, as a matter of practical necessity, such strikes cannot be permitted to take place. Last spring a nation-wide railroad strike that would have constituted a national disaster of the first magnitude was stopped by the use of some of the President's extraordinary war powers. Those powers no longer exist. If the emergency were to be repeated, however, the strike would have to be prevented in one way or another.

"The existing situation is unfair to all concerned. It is unfair to the workers because it leads them to believe that they have a right which, in the final reckoning, they do not have. It is unfair to the employers because it places them in the position of parties to interruptions of services which they are obligated to maintain. And it is unfair to the people because it exposes them to emergencies with which they have no legal means of dealing.

"The law should recognize realities by clearly marking out certain industrial divisions in which the right to strike does not exist. Railroads and public utilities have long been set apart by law as being, in a peculiar sense, affected with a public interest. They are granted monopoly privileges; they are not allowed to suspend or curtail their services without special permission; and their rates are fixed by governmental authority. Persons accepting employment in such industries should do so with the clear understanding that they, as well as their employers, are barred by the nature of their services from some of the privileges, as well as some of the disadvantages, that apply to free enterprise in general."

—EXCERPT *from The Guaranty Survey.*

The March of Events

In General

Lilienthal Heads AEC

THE government's Atomic Energy Commission, headed by David E. Lilienthal, recently was given its go-ahead to "get on with the job" after three months of uncertainty. In Mr. Lilienthal's words: "The important thing now is to get on with the job. It is an urgent job. It demands for success the wholehearted teamwork of the entire American people, of science, of industry, the armed forces, and government."

He made that statement after the Senate voted 50 to 31 on April 9th to confirm his nomination as chairman of AEC. It was a vote that came nearly three months after President Truman sent the nomination to the Senate. Those months were marked by a bitter fight that tore Republican ranks apart.

Mr. Lilienthal received the votes of twenty Republicans and thirty Democrats. The votes against him were cast by twenty-six Republicans and five Democrats.

Among his supporters was Senate President Arthur H. Vandenberg (Republican, Michigan), and among his opponents was Chairman Robert A. Taft (Republican, Ohio), of the Senate Republican Policy Committee.

The Senate also approved by voice vote the remaining commission nominees. They were Robert F. Bacher, atomic bomb scientist; Sumner T. Pike, business executive and former SEC member; Lewis L. Strauss, banker and wartime naval officer; William L. Waymack, former Des Moines, Iowa, newspaper editor; and Carroll L. Wilson, official in the wartime Office of Research and Development.

Bills to Curb FPC

TWO bills were introduced recently by Representative Miller (Republican, Connecticut) to limit the jurisdiction of the Federal Power Commission. Both were referred to the House Interstate and Foreign Commerce Committee, where Chairman Wolverton has indicated that hearings would be held some time this session, despite a heavy schedule. Late May was named as a possible time for such hearings.

One of the Miller bills (HR 2973) is devoted to the hydroelectric (Part I) section of the Power Act. It would do four things: (1) Forbid FPC control over any hydro project built and operating before passage of the old Federal Water Power Act in 1920; (2) exempt manufacturers and other nonutility hydro operators from FPC control by confining such control to hydro projects developing power for sale in interstate commerce; (3) permit FPC control over projects on nonnavigable streams only if they adversely affect navigable streams and only if built since 1935; (4) nullify the Supreme Court decision in the New River Case by defining a navigable stream as one ordinarily used for commercial navigation, or one which could be converted to such use at reasonable expense commensurate with the commerce expected.

The other Miller Bill (HR 2972) would amend the "interstate commerce" section of the Power Act.

FPC Issues Annual Report

IN its first full report issued since 1940 the Federal Power Commission on March 27th called attention to "the tre-

mendous expansion in the power industry" and "an almost equally dramatic expansion of the use of natural gas" since prewar years. The report covers commission activities during the fiscal year ended June 30, 1946.

During war years, in order to conserve materials and man power, the commission limited its reports to the minimum statutory requirements. In bringing down to date the developments of the intervening years in the fields in which the commission's responsibilities lie, the 1946 report recalled that its 1940 counterpart referred to "the epoch-making growth of the electric power industry." At that time, the 1946 report continued, "the total installed capacity was 40,000,000 kilowatts with an annual output of more than 142,000,000,000 kilowatt hours. By the end of 1946, installed capacity had increased to about 50,000,000 kilowatts and annual generation to over 222,000,000,000 kilowatt hours."

Arizona

Bill Enacted over Veto

THE state legislature last month enacted over Governor Osborn's veto a bill directing the state tax commission to make an annual assessment against electric, gas, and water utilities to provide funds for regulating such corporations. The bill provides for an assessment of one-tenth of one per cent on the gross revenue of the utilities, to produce an estimated total of approximately $31,000 a year.

District of Columbia

Hearing to Sift Possible Refund

MEANS by which the Potomac Electric Power Company can refund an estimated $3,000,000 to Washington consumers were scheduled to be discussed at a public hearing before the public utilities commission April 15th.

The hearing also will go into the question of whether further refunds are due local electric users as a result of possible rate reductions during the years since 1943.

There has been no change in the rates charged for electricity in the past four years. In 1944, the commission ordered Pepco to file new rate schedules designed to return $1,037,000 to consumers.

The Federal government has characterized electric rates in the District as unjust and unreasonable and has asked for a reduction. The government's annual electric light bill is placed at more than $5,000,000 and Major General Philip B. Fleming, Federal Works Administrator, urged the Justice Department to take the case to the highest court.

Illinois

Curbs on Gas to Continue

DESPITE plans to increase the Chicago area's natural gas supply next winter by 50,000,000 cubic feet daily, it will be necessary to continue present restrictions against new residential space heating, George A. Ranney, chairman of Peoples Gas Light & Coke Company, told stockholders recently. The stockholders' annual meeting was held in Chicago.

"The pipe-line companies are now receiving the first substantial deliveries of some 380 miles of steel pipe to supply the first increment of natural gas to the Chicago area," Ranney said. "It is hoped

this additional gas will be available by November. Notwithstanding this, the company will be obliged to secure relief from the Illinois Commerce Commission by a new order still limiting the expansion of the use of gas for space-heating purposes for the winter of 1947-48."

The present order prohibits sales of gas for space heating to residences which did not have gas heating units installed before last July, and to industrial customers who can reasonably use other fuels. Ranney said the new order, now under consideration by the commission, probably would contain similar provisions.

Maine

Power Export Bill Killed

A BILL which would have authorized export of hydroelectric power without legislative consent was killed last month by the state house of representatives through acceptance without debate of an adverse report of its public utilities committee.

Massachusetts

Public Ownership Recommended

COMPLETE public ownership and extension to a 12-mile radius of the Boston Elevated Railway Company lines was recommended on April 5th by a special investigating commission as a means of wiping out the line's yearly deficits.

In a report to the state legislature, the Metropolitan Transit Recess Commission recommended also that extension from the present 5-mile limit be accomplished by taking over the rights of way not being used by the railroads.

The investigators, who studied the subject for two years, recommended extension of service to Lynn and Salem, as well as the south shore, now serviced by Eastern Massachusetts Street Railway Company and local companies.

Boston Elevated now operates under a public trusteeship.

The commission report continued that public ownership would eliminate many items of fixed charges which contribute to the deficits. Among them, the report stated, are the $1,000,000 guaranteed dividends paid out each year on privately held stock and the Federal income taxes.

Minnesota

House OK's Public No-strike Bill

THE state house labor committee recently broke a log jam that has held up major labor legislation when it recommended passage of a bill outlawing strikes by public employees. The vote on the senate-approved measure was 9 to 5 and produced a heated clash between Representative Edward J. Volstad of Minneapolis and Chairman John Kinzer of Cold Spring. Volstad charged that committee members had been given no chance to speak on the measure and protested action of the committee.

The no-strike bill applies to all state employees and to those of all other governmental units, including agencies, commissions, and the University of Minnesota.

It makes such strikes unlawful and subject to injunctive action in the courts. It also provides for use of the state labor conciliator's office in public disputes and for a fact-finding commission, if necessary.

Missouri

Utility Tax Suggested

A UTILITIES use tax would be added to the school revenue enabling acts to be submitted to the state legislature, the citizens tax resources committee announced recently.

The committee also announced that its proposed income tax bill would be revised.

The utilities use tax was said to be a revival of the 5 per cent excise levy suggested more than a year ago by the board of education. The tax plan was abandoned at that time after utility companies waged a campaign against it. The tax would be levied against customers' gas, electric, and telephone bills, and the utility companies would collect it at the same time they received service payments.

Nebraska

Public Power Groups File Incorporation

THE Nebraska Association of Rural Public Power Districts and Membership Association, with headquarters at Lincoln, filed articles of incorporation with the secretary of state recently.

The purpose of the nonprofit organization is "to foster and promote by organized coöperative efforts, not for pecuniary profit, the growth and development of rural electrification in Nebraska."

New Jersey

State Returns Gas Plant

THE County Gas Company plant at Atlantic Highlands was returned to its owners recently by order of Governor Alfred E. Driscoll after two weeks of operation by the state.

Fifty-two production and distribution workers at the plant voted to strike March 14th, when the company, a subsidiary of the Public Service Corporation, refused a 15-cent hourly wage increase. The plant services an estimated 13,000 consumers in northern Monmouth county.

The final settlement resulted in a wage increase of 14 cents per hour. The company had originally offered 11 cents. Governor Driscoll praised work of the state mediation board, which handled the negotiations.

New Mexico

New Revenue Bond Law

SANTA FE'S move to take over properties of the Public Service Company of New Mexico in that city may run into difficulty.

The recent state legislature passed a law (SB 229) which requires three-fourths majority of a city council to vote revenue bonds. In voting last October 9th to enter into a contract with Kansas City and Topeka, Kansas, bond houses, looking to municipal ownership, the council split 5 to 3.

In view of the new law, if it stands, the municipal ownership advocates on the council apparently will have to win over one of the three, if they are to get the three-fourths majority now necessary to issue revenue bonds. It was by this means that they planned to acquire the physical assets of the utility from the bond houses if they were successful in getting control of the stock.

New York

New Utility Act Invoked

CHAIRMAN Milo R. Maltbie, of the state public service commission, recently set April 24th for the first proceeding under a new law authorizing the commission to compel reorganization of utility companies which may be insolvent.

The commission said it repeatedly had urged that the International Railway Company undergo financial reorganization but had lacked power to initiate such a step until the legislation that it recommended had been approved.

Section 119 of the Public Service Law, which gives the commission this power, was signed last month by Governor Dewey.

In his announcement, Chairman Maltbie said the purpose of the investigation would be "to determine whether the outstanding liabilities (of the company) exceed its assets and whether the public interest requires that the company be reorganized." If so, he added, the officers and directors will be ordered to file a petition for reorganization under the Federal Bankruptcy Act.

New Rate Cut Announced

THE Buffalo Niagara Electric Corporation on April 2nd announced a new reduction in rates to commercial and industrial consumers effective April 14th.

The new reduction, estimated at $350,000 annually, brings the total rate lowerings of the company to $955,000, the state public service commission said.

Consumers in Allegany, Cattaraugus, Chautauqua, Livingston, Ontario, and Wyoming counties, and parts of Erie, Genesee, Monroe, Niagara, and Orleans will benefit by the latest cut.

Public Service Strikes Outlawed

GOVERNOR Dewey late last month signed the Condon-Wadlin Bill which outlaws strikes by public employees and fixes dismissal as a penalty for violations. In doing so he declared that such strikes could paralyze government and produce anarchy.

Senator William F. Condon of Yonkers and Assemblyman John F. Wadlin of Highland, both Republicans, who were cosponsors of the legislation, witnessed the signing in the governor's office.

At the time Mr. Dewey approved the law he had before him briefs filed by both the state federation of labor and the state Congress of Industrial Organizations asking that he veto the measure, one of the most controversial to come before the recent session of the legislature.

In a memorandum filed in connection with his approval, the governor took cognizance of the arguments advanced by the labor unions, Mayor William O'Dwyer of New York city, and the Democratic members of the legislature in opposition to the bill. They had contended that the measure was unnecessary, since strikes by public employees had been held unlawful by the courts, and that it would fail to accomplish its purpose of preventing such strikes.

Mr. Dewey, in approving the bill, ignored completely the requests that had been made by CIO unions and others for a public hearing on the bill before it was signed.

North Carolina

New Co-op Bill

REPRESENTATIVE Henry C. Fisher of Buncombe, whose measure calling for taxation of certain coöperative marketing associations was killed by house action, sent up a measure on April 1st to

provide for the appointment of a legislative commission to study the feasibility of taxing coöperatives.

Membership of the study commission would be composed of two senators and three representatives to be appointed by the governor. A report would be made to the 1949 legislature.

Under the Fisher measure that was killed, coöperatives would have been required to pay franchise taxes unless they are associations which buy and sell only products of members. Also, the bill, as amended, would have required coöperatives to pay income tax. However, the association would not have had to pay income tax on funds paid over to association members. Only money held in reserve for expansion purposes would have been subject to income tax.

Ohio

Company Meets City's Demands

THE Cleveland Electric Illuminating Company recently met the city of Cleveland's demand that it reimburse the city and private customers for $2,000,000 in rate overcharges issuing from a 3-year rate battle between the city and the utility.

The settlement announced by the mayor's office had still to be ratified by the city council. Of the total amount, about $1,700,000 would go to private consumers in the form of reduced billings for the month of July. Approximately $300,000 for street-lighting bills would be rebated to the city over a 2-year period.

In July, 1944, the city council adopted a rate ordinance cutting $2,000,000 annually from the utility's rates. In exchange for the $2,000,000 credit, the Cleveland Electric Illuminating Company will receive the following benefits: Withdrawal of the city suit pending before the state supreme court. Continuation of the present electric rate for four years. Increase of 17 per cent in steam rates, which will add $625,000 a year to the electric company's revenue.

Pennsylvania

"Tip" Taxis Stopped

MEMBERS of the GI Taxicab Association, who have been providing Philadelphia with service on a tip basis, must cease their operation, the state supreme court ruled recently.

The tribunal's decision, handed down in Pittsburgh, upheld an injunction of the Dauphin County Court, which, in turn, had supported the state public utility commission's order directing the GI group to stop operating cabs.

The state commission on December 2, 1946, turned down the association's bid for operating permits after hearings at which the Yellow Cab Company maintained that it was providing adequate service for Philadelphia.

While considering the association's appeal, the supreme court permitted the group to operate on a tip basis.

Texas

Closed Shop Bill Approved

THE state legislature by a decisive majority on April 2nd sent the governor its first restrictive labor measure, banning the closed shop. The house approved, 84 to 39, a conference committee revision of the bill by Representative Marshall O. Bell, San Antonio. It had

been stripped of a crippling amendment. The senate, a few minutes later, ratified the report on a voice vote.

Commonly known as the "Right to Work Bill," it declares that the inherent right of a person to work and bargain freely with his employer, collectively or individually, shall not be denied or infringed by law or any organization. Then it provides that "no person shall be denied employment on account of membership or nonmembership in a labor union."

Passage of the bill was said to be an outright defeat for organized labor. Union leaders protested it bitterly.

Bills to prevent disruption of utility service during labor disputes and to penalize secondary strikes and boycotts were approved last month by the state house labor committee.

The committee declined Representative Sidney McClain's proposed amendment to include telephone workers under the utility strike bill. It applies to electric, gas, and water utilities.

The utility bill reported recently was the senate version of a measure already approved by the house labor committee. It prescribed penalties for disruption of essential service and for sabotage. Picketing would be permitted as long as it did not interfere with service.

Claud Gilmer, house sponsor of this legislation, opposed addition of the amendment to include telephone companies. He expressed an opinion it would not be germane to the original bill, and legally would fall into a group of secondary public services which have not been considered essential. He suggested a separate bill be drawn for telephones.

House Passes Gas Tax

THE house sent to the senate early this month the first tax bill of the fiftieth legislature, an estimated $35,000,000 annual levy on the gathering of natural gas.

A strong majority jammed it through the house, 77 to 28, with a minimum debate. Proceeds of the tax would be devoted first to payment of $2,000 minimum salaries to teachers and, secondly, to construction of rural roads.

The tax levy is 1.85 cents per thousand cubic feet on natural gas carried in gathering lines, excluding that used for manufacturing carbon black or reinjected into the earth.

Its definition of "gathering gas" seeks to place the occupation tax on the person or firm handling the gas after it is produced and before it is admitted into a transmission line. The tax would be in addition to a production levy of 5.2 per cent of value at the wellhead, which yielded $3,500,000 last year.

Washington

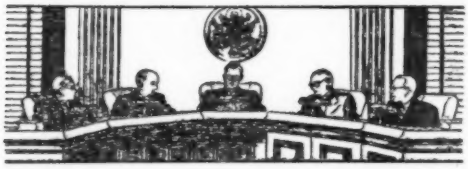
Rate Increase Authorized

THE Spokane Gas & Fuel Company last month was authorized by Andrew J. Zimmerman, director of the state department of public utilities, to increase rates to the consumer to an extent which would give the company an added gross operating revenue of $81,000 in 1947. The increase became effective as of March 12th, and is now operating.

Director Zimmerman said he was unable to state what the increase would mean to the average customer, but that it would produce only a 2 per cent return to the company on its invested capital.

Facts brought out at a hearing of the company's application for increased rates showed that operation loss in 1946 was $19,598 and would amount to $72,597 in 1947. The January loss actually was $8,105, according to testimony. The hearing was held last February.

Director Zimmerman denied the company's request to make customer thermal unit billing, ordering instead that the cubic foot basis of customer billing be used, effective with March 12th meter readings.



The Latest Utility Rulings

Cost of Defending Title to Water Rights Charged to Plant Account

THE New York commission, in permitting the merger of Hydraulic Race Company into Buffalo Niagara Electric Corporation last year, provided that about $68,000 standing in the account of the merged company as representing amounts paid for professional services and expenses in a proceeding against the state of New York should be charged to Account 146, Other Deferred Debits. Later the company petitioned for authority to transfer this amount to Plant in Service. Authority has been granted as to a part of the amount.

The questioned expenditure related to the cost of the company's defense of its right to use Erie canal surplus water under a lease. The state had taken the position that the surplus waters of the Barge canal were not a part of the quantity of waters originally leased. The court finally upheld the right of the company to these waters.

Evidence was submitted to show that about $11,000 of the amount in controversy related to engineering fees, and it was proposed to charge this to surplus. A balance of about $56,000 was established as the cost of defending the lease of surplus canal waters. Commissioner Burritt, speaking for the commission, said:

> Considering the nature and importance of the defense of its rights, the amount of litigation involved, and the period over which it extended, I believe that the company has shown the propriety and reasonableness of the cost of $56,357.72.

The Uniform System of Accounts, in Instruction 9—Land and Land Rights in Electric Plant accounts, provides that items of cost to be included in the accounts for Land and Land Rights are as follows: "Title, examining and acquiring and registering in connection with the acquisition; and defending against claims relating to the period prior to the acquisition."

This provision, it was said, clearly covered the amount which was found to be the reasonable cost of defending the company's title to use the surplus waters, and it should be charged to Account 101, Electric Plant in Service. *Re Buffalo Niagara Electric Corp. (Case 12,372).*

Stock Restrictions Not to Be Imposed When Certificate Transfer Approved

THE West Virginia commission is without power to impose conditions and restrictions upon the transfer of stock when it approves the transfer of a certificate to a corporation. The state supreme court of appeals so held in setting aside a commission order authorizing the transfer of a certificate by an individual to a corporation controlled by him.

The corporation had been organized so that the holder of the certificate might

segregate his regulated business from other activities.

However, he had not been aggressive in developing the territory. The commission thought that without such restriction control of the corporation might fall into the hands of those who, by reason of aggressiveness and financial ability, might, without the consent of the commission, enter upon a program to exploit the entire field and destroy the stabilization of the motor transportation industry in the territory.

The statute, said the court, requires commission approval of a certificate transfer. There is nothing in the statute, however, which delegates to the commission the power to impose conditions on the ownership and transfer of the stock of a corporate certificate holder. *Nicely et al. v. Public Service Commission et al. 41 SE2d 297.*

Approval Required for Reorganization and Reissue of Capital Stock

THE Wisconsin commission authorized Wisconsin Hydro Electric Company to issue first mortgage bonds, to make certain adjustments of its accounts, and to reclassify its capital stock so as to effect a reorganization. These steps were being taken in connection with proceedings before the Securities and Exchange Commission.

The Wisconsin Supreme Court had decided in Lake Superior Dist. Power Co. *v.* Public Service Commission (February 25, 1947) that no fee was payable on a split-up of common stock into a greater number of shares without increase in the total par value outstanding. The court, in effect, had held that the fee applied only to original issues and that, consequently, as upon the split-up there was no issuance of additional common stock or any change in the utility's existing capitalization, there was no additional original issue of securities.

In the instant proceeding there was to be no money, property, or services paid in to the company and no increase in its total outstanding capital stock. Thus, in conformity with the court's decision, there was no additional original issue of capital stock and no fee as contemplated by the statute was payable.

It seemed clear to the commission, however, that authorization was required for consummation of the recapitalization. Wisconsin statutes give the commission jurisdiction to regulate the issuance of securities. It was said to be evident from the statutes that before a public service corporation may issue securities it must first obtain a certificate authorizing such action. The commission continued:

> The regulatory power conferred on the commission in accordance with which it may grant such authorization is not restricted to an original issue of capital stock but applies likewise to reissues of such capital stock with different characteristics, terms, or conditions. To hold otherwise would set at naught the clearly expressed intent of the legislature that securities of public service corporations be so regulated that they "afford reasonable protection to purchasers" thereof. Obviously, if securities once originally issued may later be changed without commission authorization so that their terms and conditions are different from those originally authorized by the commission, then the finding of "reasonable protection to purchasers" required by statute would be meaningless as that protection could be completely eliminated by changes not subject to the commission's jurisdiction. Accordingly, we conclude that authority from this commission to issue common stock is required to effect the recapitalization of the company.

Moreover, in this proceeding a virtually complete change in capitalization was proposed. Outstanding preferred stock was to be converted into common stock. Outstanding common stock was to be converted into a less amount in total and per share of new common stock. Voting rights and control were to be redistributed. The commission considered this to be a reorganization subject to statutory provisions for commission approval. *Re Wisconsin Hydro Electric Co. (2-SB-279).*

No Redemption Premium When Net Retired Under Statutory Compulsion

THE Securities and Exchange Commission, in passing on reorganization plans for the Interstate Power Company, again stated its view that the retirement of indebtedness under the compulsion of § 11 of the Holding Company Act is not voluntary or at the option of the company. Therefore, a redemption premium is not required.

A ratio of bonds to net property of 93.3 per cent and a ratio of bonds to total capitalization of 87.1 per cent were deemed excessive. The commission said that, in order to be feasible, a reorganization plan must give reasonable assurance that the enterprise will operate economically and efficiently. It must be able to perform the purposes of its existence.

Further reorganization, with its attendant expense and injury to investors, must be avoided. *Re Interstate Power Co. (File No. 54-130, Release No. 7143).*

Labor Union As a Party

A RAILROAD'S motion to dismiss the complaint of a trainmen's union against a rate increase was denied by the Pennsylvania commission, which agreed with the railroad that the union was not a patron or customer. It might, however, have sufficient standing as the representative of its members using train service to make the complaint, it was said.

The matter was set down for a hearing at which the union would be given opportunity to present facts establishing its interest in the rate increase. *Brotherhood of Railroad Trainmen, Blue Mountain Lodge No. 694 v. Valley Transportation Co. (Complaint Docket No. 14192).*

Stock Dividend Authorized by SEC

THE Detroit Edison Company was permitted by the Securities and Exchange Commission to issue 636,130 shares of its par value common stock as a dividend and to transfer the aggregate par value thereof, $12,722,600, from earned surplus to capital stock account. The stock dividend is to be distributed to common stockholders in the ratio of one share for each ten shares held.

In lieu of issuing fractional shares, the company will issue scrip certificates, payable to bearer. These may be exchanged for full shares at any time during a period of two years. At the expiration of that period the company will sell, at market price, a number of shares of its common stock represented by unexchanged certificates outstanding and will hold the cash proceeds for an additional period of four years. It will pay to scrip certificate holders, upon surrender of their certificates, their proportion of the net proceeds of the sale. *Re Detroit Edison Co. (File No. 70-1468, Release No. 7284).*

Security Values Not Measured by Wartime Earnings

A PLAN providing for recapitalization of the Seattle Gas Company on a common stock basis was approved by the Securities and Exchange Commission. This is a subsidiary operating utility. Among other things, the commission ruled that wartime earnings are not, by themselves, a reliable criterion for determining prospective earnings for the purpose of judging the fairness, or un-

fairness, of a recapitalization plan.

Cancellation of present common stock was considered fair, since second preferred stockholders had a dividend claim exceeding the most favorable future earnings estimate for the company. *Re Seattle Gas Co. (File Nos. 54-124, 59-79, 70-1197, Release No. 7128).*

Intrastate Rates Conformed to Interstate Rates

AUTHORITY was granted by the Minnesota commission to increase rates for intrastate shipments of coal and coke in conformity with similar increases authorized by the Interstate Commerce Commission. It was said that confusion existed at the head of the lakes in connection with line-haul movements of coal by way of state and interstate routes.

Commissioner Chase, in a dissenting opinion, objected that the order was primarily in the interest of one or more coal companies and directly against the interests of the coal-using public of Minnesota. He said:

> In my opinion this commission is created and its members employed to represent and defend the people of Minnesota and not to pass orders to their detriment. The proposed order will cause an increase in coal prices in Minnesota to the extent of the increase in rates. It cannot be otherwise, unless the coal companies absorb the increase, and this is exactly what the company or companies with Superior dockage do not desire to do.
>
> I protest further the contemplated action whereby this commission places additional financial burdens upon the people of the state "without making a finding as to the reasonableness of the rates so increased." If we have not the mental capacity to determine whether or not rates are reasonable, we should not increase them blindly.

Re Freight Rates and Charges (Docket No. A-6841, Reopened).

Connection Charge in Lieu of Taxes Disapproved

THE Colorado commission upheld a school district's complaint against the connection charges of a sanitation utility.

The sewer system had been constructed at considerable cost, which was to be defrayed by taxes collected from residents of the area in relation to the assessed valuation of their particular property.

However, since the school district property was tax exempt, the utility, by the admission of one of its officers, imposed a "connection charge" of $2.21 per foot of sanitary line within the school district property.

This charge applied only to tax-exempt property.

The commission ruled that such a charge was unreasonable, discriminatory, and without foundation in law. *School District No. 47, County of Jefferson v. Lakewood Sanitation District (Decision No. 27655, Case No. 4934).*

Motor Carrier Permit Withheld

THE Colorado commission denied a motor carrier's application for a permit to operate as a private carrier where the evidence offered by the carrier indicated that the service that he would render could well be that of a common carrier. The commission also considered the effect that the proposed operation would have on existing common carrier service and therefore stated:

> Moreover, we cannot say, from the evidence offered herein, that the common carrier service is inadequate, and it did appear that the efficient public service of some carriers would be impaired by the proposed operation of applicant.

Re Schroeder (Application No. 8060-PP, Decision No. 27522).

Other Important Rulings

THE Montana commission stated that it has sanctioned the filing of rate contracts between utilities where the conditions under which service was rendered were special and where other patrons of the utility could not accept or use power under the same conditions, but that it was not bound by such contract rates if they were discriminatory, and it could change them at any time. *Re Montana Power & Light Co. (Docket No. 3494, Order No. 1893).*

New rates proposed by a telephone company were approved by the Wisconsin commission where the company's return would be about 5.8 per cent and where the increased rates were still somewhat lower than rates of comparable exchanges. *Re Gilman & Western Telephone Co. (2-U-2299).*

The New York Court of Appeals upheld a decision that contracts under which the city of Buffalo agreed to maintain railroad crossings within its limits were unaffected by a subsequently enacted statute extending to that city the provisions of the Railroad Law making railroads responsible for the maintenance of crossings. *Western New York & Pennsylvania R. Co. et al. v. City of Buffalo, 71 NE2d 108.*

The New York commission authorized a holding company to sell to its wholly owned subsidiary water rights leased by the holding company to the subsidiary and used by the latter company in the development of hydroelectric power. The commission believed that a company using water rights should own them rather than lease them from its parent. *Re Buffalo Niagara Electric Corp. (Case No. 12727).*

That an electric company's acquisition of the properties and franchises of another electric company would result in a rate reduction for the customers of the latter company does not justify the sale where there would be no reduction in the cost of service in the area served by the seller and the reduction would be borne by the existing customers of the purchasing company, since the public involved in such a sale consists of the customers of both companies, according to a recent ruling of the New York commission. *Re Old Forge Electric Corp. (Case 11604).*

The Nebraska Supreme Court affirmed a lower court decision requiring a railroad to cease using reflectorized discs at switch stands where formerly oil lamps were used. The court, quoting the relevant statute, pointed out that the words of the statute in their ordinary and usual meaning clearly did not include reflectorized discs as proper lights at switch stands. *State v. Chicago & N. W. R. Co. 25 NW2d 824.*

The Colorado commission rejected a motor carrier's application for authority to render service necessary to the discovery and production of petroleum where the record indicated that existing service in the oil fields was adequate or could be made adequate under commission direction. The commission pointed out that too many carriers ultimately would cause a deterioration of service, not an improvement. *Re Lemmon (Application No. 7669, Decision No. 27284).*

The supreme court of Oklahoma affirmed a ruling of the state commission approving a motor carrier's request for the extension of its certificate. The commission had found that the new service was a necessity in the sense that it was a public need without which the public would be inconvenienced to the extent of being handicapped in the pursuit of business or pleasure, or both. *Oklahoma Transportation Co. v. State et al. 177 P2d 93.*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

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VOLUME 67 PUR(NS) NUMBER 4

Points of Special Interest

Titles and Index

TITLES

INDEX

NEW JERSEY BOARD OF PUBLIC UTILITY COMMISSIONERS

Re Tri-County Rural Electric Company, Incorporated

Docket No. 2521

Jersey Central Power & Light Company

v.

Tri-County Rural Electric Company, Incorporated

Docket No. 2694
March 4, 1947

APPLICATION *by electric utility for authority to borrow money for extension of lines and complaint by rival utility as to territories to be served; service-area boundaries established and application denied. For a related decision, see (1941) 38 PUR(NS) 48.*

Monopoly and competition, § 16 — Commission jurisdiction — Territorial dispute.

1. The Commission has authority to determine service-area disputes between electric utilites, p. 100.

Monopoly and competition, § 28 — Territorial disputes — Establishment of boundaries.

2. Definite service areas should be established for electric utilities where establishment of service to new customers is delayed because of uncertainties and disputes over the territory which each should serve, p. 101.

Monopoly and competition, § 28 — Electric utilities — Service areas — Establishment of boundaries.

3. An electric utility should receive an adequate allocation of the territory which it has developed, when service-area boundaries are established between rival utilities, p. 101.

Security issues, § 53 — Authority to issue note — Funds for extension line — Denial pending territorial boundary establishment.

4. An application for authority to issue a note to secure funds for constructing extensions to lines, in territory involved in a controversy with another utility as to operating rights, should be denied pending establishment of territorial boundaries by the Commission, p. 101.

APPEARANCES: Joseph F. Autenrieth and Alfred A. Rochester, for Jersey Central Power & Light Company; Herman H. Anekstein, for Tri-County Rural Electric Company, Inc.; Frank H. Sommer, Deputy Attorney General, Counsel for Board of Public Utility Commissioners.

By the COMMISSION: Tri-County Rural Electric Company, Inc. (hereinafter referred to as Tri-County), a public utility subject to the jurisdiction of this Board, applied by petition dated June 14, 1946, for authority to execute a note in the amount of $50,000, for the purpose of obtaining funds to finance the construction of approximately 16 miles of additional electric transmission, distribution, and service lines, together with necessary appurtenances to serve approximately 250 new customers. Together with its petition, Tri-County submitted a map showing the location of the lines it proposes to construct and the customers it proposes to serve. The petition recites that a copy of the aforementioned map was submitted to Jersey Central Power & Light Company on or about May 23, 1946, in accordance with a previous ruling of this Board. The ruling referred to follows:

. . . "In order to avoid territorial disputes in the future in so far as possible and to effect a speedy termination of such disputes as may arise if either party desiries to extend its respective lines within one mile of the line of the other party, then such party desiring to so extend shall serve thirty days' written notice of the proposed extension upon the other party. If after service of notice disputes shall arise the dissatisfied party shall promptly seek recourse as provided by statute through petition to this Board." . . . (Board's order dated April 24, 1941.)

A hearing was held in the matter covered by Docket No. 2521 on July 22, 1946, and at the request of counsel for Jersey Central Power & Light Company the hearing was continued to afford the latter an opportunity to be heard.

Jersey Central Power & Light Company (hereinafter referred to as Jersey Central), by petition dated August 21, 1946, filed a formal complaint against Tri-County, containing allegations which may be summarized as follows:

1. That the map attached to Tri-County's petition, dated June 14, 1946, hereinbefore referred to, indicates that certain of the transmission, distribution, and service lines which Tri-County proposes to construct, come within the provisions of the Board's order of April 24, 1941, in that they would constitute extensions within one mile of Jersey Central lines and that said extensions, more particularly set forth in Schedule "A" of its petition, would, if constructed, constitute an invasion of its territory.

2. That said proposed extension would, in part, violate the following provision of an agreement between Jersey Central and Tri-County, dated August 2, 1937:

"Neither party, unless ordered so to do by a properly constituted authority, shall distribute or furnish electric energy to anyone, who, at the time of the proposed service, is receiving electric service from the other, or whose premises are capable of being served by the existing facilities of the other without extension of its distribution system

other than by the construction of secondary lines not exceeding 300 feet in length.

"Neither party unless ordered so to do by a properly constituted authority shall duplicate the other's facilities except in so far as such duplication shall be necessary in order to transmit electric energy between unconnected points on its lines."

3. That in the past Tri-County in three instances, specified in the complaint, established service to customers either in violation of aforementioned agreement of August 2, 1937, or the Board's order dated April 24, 1941.

4. That Tri-County has, since the order of the Board dated April 24, 1941, constructed extensions of its primary distribution facilities, paralleling and in close proximity to the primary distribution facilities of the Jersey Central, with the design and intent of extending beyond existing lines of Jersey Central so as to thereafter claim the right to serve prospective customers to whom Jersey Central would otherwise be entitled to render service, pursuant to the terms of the aforesaid agreement dated August 2, 1937, or the aforesaid order of April 24, 1941.

5. That continuing controversies between the parties can only be avoided by the establishment of definite territorial boundaries (boundaries suggested by Jersey Central are set forth in paragraph 12 of its petition).

Jersey Central's petition prays, in substance, for the issuance of order to Tri-County to show cause why it should not be ordered to cease supplying certain premises, to refrain from supplying other premises, all of which premises are more particularly set forth in Schedule "A" attached to Jersey Central's petition; and why territorial boundaries should not be established in the manner set forth in paragraph 12 of Jersey Central's petition. The petition further prays that upon finding that any of Tri-County's proposed construction is not necessary and will not conserve the public interest, an order be issued prohibiting, pro tanto, such construction; and that the Board fix and determine areas for primary distribution facilities by each party and established boundaries to protect and preserve the integrity of privileges exercised by the parties in the territory served by them.

An order to show cause, as prayed for, was issued. Tri-County subsequently filed an answer, in which it asserts that after an exchange of letters with Jersey Central pertaining to its proposed construction program, set forth in its petition—Docket No. 2521—it agreed at a hearing on July 22, 1946 (prior to filing of Jersey Central complaint), to the elimination from its construction program of extensions to seventeen prospective customers, included in Schedule "A" of Jersey Central's petition. Also that it has agreed, prior to the filing of Jersey Central's petition, that Jersey Central could serve seven other prospective customers set forth in Jersey Central's list of service objections, set forth in the aforementioned Schedule "A." As to the remaining thirty service objections listed in Schedule "A" Tri-County denies Jersey Central's right to serve these customers and asserts that it is entitled to serve them. Tri-County also specifically denies charges that it has constructed lines in a manner designed to permit the preëmpting of territory and alleges in turn that Jersey Central was guilty of such practices. Tri-County's answer further as-

serts that neither Jersey Central nor Tri-County have strictly complied with the provisions of the Board's order of April 24, 1941, and sets forth specific instances in which it alleges that Jersey Central violated said order. The answer further asserts that strict compliance by both parties with the Board's order of April 24, 1941, would make the establishment of specific boundaries unnecessary. As to the boundaries suggested by Jersey Central, Tri-County asserts that said boundaries are arbitrary, insufficient, impractical, and injurious and fail to take into account the present location of Tri-County's system and that Jersey Central, in suggesting said boundaries, was seeking to thwart Tri-County's growth and make its existence impossible financially. Tri-County prays that Jersey Central's complaint be dismissed.

Because of the close relationship of the matters involved in Tri-County's Security Application—Docket No. 2521—and the Jersey Central formal complaint as to territorial boundaries —Docket No. 2694—these proceedings were consolidated after the initial hearing on Docket No. 2521. Further hearings were held on September 25, 1946, and October 3, 1946, and briefs were thereafter submitted by both parties.

While the pleadings in these proceedings are somewhat lengthy, the issues presented may be briefly summarized as follows:

1. Necessity for establishment of territorial boundaries under the circumstances in this case.

2. Reasonableness and territorial boundaries suggested by Jersey Central.

3. Rights of respective parties to serve prospective customers referred to in the pleadings.

4. Right of Tri-County to continue to supply service to three existing customers (Rova Farms—Arthur Mick and Fred Noller).

5. Effect of conclusions reached as to foregoing on Tri-County's application for the approval of the issuance of a $50,000 note to finance extensions to some new customers.

[1] The Board's authority to determine territorial disputes, is set forth in Rev Stats 48:7–5 viz:

"The Board of Public Utility Commissioners shall have power, after hearing upon notice, to determine between public utilities supplying electric light, heat, or power, questions in dispute as to territories to be served. Pending the hearing the Board may enjoin the construction of facilities for such supply.

"Upon finding and determination that the construction is not necessary and proper for the public convenience and will not properly conserve the public interest, the Board may issue orders prohibiting it."

Tri-County, a New Jersey corporation, was organized in 1937, in furtherance of a government-aided program for promotion of electrification in rural areas which were not receiving central station service. Tri-County supplies electric service in portions of four counties, viz: Middlesex, Monmouth, Burlington, and Ocean counties. The area served by Tri-County is completely surrounded by the area in these counties in which Jersey Central provides service. To some extent the areas served by the respective companies are interwoven, and

their lines cross each other at many points.

The provisions of a power agreement dated August 2, 1937, and hereinbefore quoted, represented the initial effort of the parties to avoid territorial disputes. Counsel for Tri-County, in his brief, asserts that both Jersey Central and Tri-County violated this agreement, and there is evidence in the record in support of this assertion. It is clear that this agreement did not adequately accomplish its objectives.

In the determination of a territorial dispute between the same parties, this Board in 1941 issued an order containing a provision hereinbefore quoted, which was intended to avoid in so far as possible future territorial disputes. Each of the parties frankly admitted violating this order.

[2] The position taken by Tri-County that the establishment of definite territorial boundaries is not required under the circumstances in this case, does not appear tenable in the light of admissions by Tri-County that the latter violated the 1937 agreement, and the Board's order of 1941, both of which were intended as bases for settlement for territorial questions. Counter-assertions by Tri-County of violations by Jersey Central make it clear that there is no meeting of the minds between the parties as to the areas which each is to serve. Uncertainties, and resultant disputes as to service areas tend to delay establishment of service to prospective customers. The continuance of such a situation is not in the public interest, and the Board accordingly finds under the circumstances here presented that conservation of the public interest requires the establishment of definite service area boundaries for the respective parties.

[3] While the record does not support Tri-County's contention that the boundaries suggested by Jersey Central would make Tri-County's existence financially impossible, it does, nevertheless, appear that Jersey Central's suggested boundaries would, if adopted, constitute an inadequate allocation to Tri-County of territory developed by the latter. The Board, therefore, finds that adoption of the boundaries suggested by Jersey Central in its petition would not be in the public interest.

In lieu of such suggested boundaries, the Board finds and determines that the boundaries established in the following order reasonably meet the standards of Rev Stats 48:7–5, and further that the rights of the respective parties to serve prospective as well as present customers, should be governed by the provisions of said order. The Board finds no special circumstances in the record which would justify issuance of an order that Tri-County cease serving Rova Farms, Arthur Mick, and Fred Noller.

[4] Since Tri-County proposed to use some portion of the $50,000 note which it is seeking authority to issue for the purpose of defraying the cost of constructing extensions affected in part by the provisions of the territorial order hereinafter set forth, the Board finds and determines that the application of Tri-County for approval of the issuance of the aforesaid note as more particularly set forth in its petition in Docket No. 2521, should be and is *hereby denied* without prejudice to Tri-County's right to submit a revised application in this respect in conform-

ity with the provisions of the Board's Decision and Order in this matter.

In view of the foregoing, the Board *orders* and *directs:*

(1) That, subject to the provisions of subsequent paragraphs of this order, Tri-County shall confine extensions of its facilities, within the enclosed area described in Appendix A, attached hereto [omitted herein];

(2) That, subject to the provisions of subsequent paragraphs of this order, Jersey Central shall not hereafter construct extensions of its facilities within the enclosed area described in Appendix A;

(3) That in view of the existing development by each party of some portion of the territory allocated to the other by paragraphs (1) and (2) of this order, and because of the differences in electrical and physical characteristics of the Tri-County and Jersey Central systems, each party may continue to operate existing facilities located in the territory of the other, and to serve customers now connected to said facilities;

(4) That each party, upon receipt of bona fide application for service, may, without notice to the other, make further extensions of existing secondary facilities within the territory herein allocated to the other, provided that such further secondary extensions do not exceed 300 feet in length, and in the event that longer secondary extensions are proposed, they shall only be installed after receipt of the written consent of the party within whose territory said extensions are to be located; and

(5) That each party, for proper operation of the facilities in its system, may construct and maintain through transmission facilities in and across the territory herein allocated to the other.

This decision and order shall become effective immediately.

WISCONSIN PUBLIC SERVICE COMMISSION

Re City of Stoughton

2-U-2193
January 8, 1947

REHEARING *on Commission order authorizing municipal water plant to increase water-softening rates; earlier order affirmed. For earlier order, see (1946) 66 PUR(NS) 156.*

Public utilities, § 64 — Status of water-softening service — Municipal plants.
Water-softening service furnished by a municipal water plant is public utility service subject to the Commission's jurisdiction.

By the COMMISSION: The city of Stoughton, Dane county, was granted rehearing by order of December 6, 1946, on the Commission's order of October 30, 1946, 66 PUR(NS) 156, authorizing the city, as a water pub-

lic utility, to increase rates for water-softening service rendered with individual softening units at the customers' premises. The rehearing was limited to the question of the Commission's jurisdiction and to the filing of a brief by the city attorney.

The city asked the rehearing on the ground that the water-softening service is not public utility service and, therefore, not under the jurisdiction of the Commission. In a dissent to the October 30, 1946, order Commissioner Samuel Bryan took the same position. The Commission in Docket 2-U-1998 held by order of November 28, 1944, 56 PUR(NS) 191, that the Stoughton water-softening service was that of a public utility and refused to authorize the city to abandon the service.

The Commission has read the brief of the Stoughton city attorney, has reviewed the record in this case, and has considered its previous decision. The Commission again concludes that the Stoughton water-softening service is public utility service, subject to the Commission's jurisdiction.

The Commission finds and concludes:

That it has jurisdiction with respect to the matters determined by its order of October 30, 1946, herein granting the application of the city of Stoughton, Dane county, as a water public utility, for increased rates for water-softening service.

CONNECTICUT PUBLIC UTILITIES COMMISSION

Re New Haven Gas Light Company

Docket No. 7855
January 14, 1947

APPLICATION *for authority to add uniform fuel adjustment clause to all of gas company's rates and to withdraw existing fuel adjustment clause applying only to some of its rates; uniform fuel adjustment clause approved.*

Rates, § 303 — Fuel adjustment clause — Base price of coal.

1. The fair base price for coal to be used for purchased gas in connection with a gas company's fuel adjustment clause in its rate schedule should be the 5-year average cost of coal just prior to price decontrol, 1942–1946, inclusive, rather than the price used in the company's contract with a coke company which did not represent the average cost of coal to the coke company during the time period to be used in computing cost, p. 107.

Discrimination, § 109 — Gas rates — Unfair fuel adjustment clause — Exemption of residential customer.

2. Inclusion in a gas company's rate schedule of a fuel adjustment clause applicable to sales of gas above 5,000 cubic feet per month will not create discrimination against the larger consumers, by virtue of exempting the

average residential customer from the impact of the clause in its operation, where in computing the fuel adjustment charge the company will use as a divisor the total quantity of gas sold and where the fuel adjustment clause does not recoup for the company the full impact of the increase in fuel costs, p. 107.

By the COMMISSION: The New Haven Gas Light Company, which distributes gas in the metropolitan area of New Haven, serves its several classes of customers, residential, commercial, and industrial, under six rate schedules now on file and known as schedules A–F, inclusive. Under date of November 27, 1946, said company filed with the Commission amendments to these six rate schedules embodying a fuel adjustment clause, these amendments to become effective January 1, 1947. In filing such amendments the company, in its covering letter, stated as follows:

"This amendment makes no change in the present rate schedules, with the exception of an addition of a fuel adjustment clause applicable to all rate schedules as follows:

"In the event the company pays increased prices for gas purchased and manufactured, by reason of increased prices for fuel, the right is reserved, without further notice, to apply a fuel charge to each 1,000 cubic feet of gas used per month when the fuel charge exceeds 1 cent per thousand cubic feet, and if at any time the company pays decreased prices for gas purchased and manufactured, by reason of decreased prices for fuel, the company will apply a fuel credit to each 1,000 cubic feet of gas used per month when the fuel credit exceeds 1 cent per thousand cubic feet.

"The increase or decrease in the fuel charge will be determined from the weighted average of:

"(a) Purchased Gas—1 cent or the proportionate fraction thereof, per each 1,000 cubic feet of gas purchased, for each 25 cents or any fraction thereof, of increased or decreased cost per ton of coal, above or below $5.90 per gross ton delivered at the plant of the supplier.

"(b) Manufactured Gas—increased or decreased cost per 1,000 cubic feet of gas made, for generator fuel and gas oil used, calculated from the bases of $8.07 per net ton and 4.1 cents per gallon, respectively, delivered at the gas plant.

"The present rate schedule "E," applying to one customer only, includes a fuel adjustment clause for coal only which was filed with your Commission on April 17, 1941. This fuel adjustment clause is hereby withdrawn and this rate is subject to the new fuel adjustment clause shown above.

"Although this fuel adjustment clause as filed is applicable to all gas used it is the present intention of the company to apply it only to gas used by all customers in excess of 5,000 cubic feet per month.

"This fuel adjustment clause will not increase the net revenue of the company but will enable the company to recover the increased cost of fuels which this company has absorbed during the war and postwar periods, and is also so drawn to give the customers of the company the benefit of any de-

crease in the future from the present level of fuel costs."

It will be observed from this covering letter that the company stated its intention of applying the fuel adjustment rate only to consumption of gas in excess of 5,000 cubic feet per month per customer, which limitation excludes about 75 per cent of the total sales to residential customers under General Rate "A."

Upon the foregoing filing the Commission originally ordered a hearing to be held at its office in Hartford, room 585, State Office building, 165 Capitol avenue, Hartford, Connecticut, on December 10, 1946. Notice of the time and place of hearing was given to the New Haven Gas Light Company, to the city of New Haven, and to other interested parties, as fully appears from Commission's order of notice and return of its secretary thereon, on file. Legal notice was published in the New Haven Register, a newspaper having a circulation in the territory served by the gas company. Upon request of the city of New Haven and other interested parties, the hearing was reassigned to be held in the Public Hearing Room of the Hall of Records, 200 Orange street, New Haven, Connecticut, on Monday, December 16, 1946, at 7:30 o'clock in the evening, Eastern Standard Time. At said time and place the New Haven Gas Light Company appeared by its president. The city of New Haven appeared by its mayor. Approximately 100 members of the public were present at the hearing some of whom stated their objections to the proposed amendments for inclusion in the rate schedules.

The matter of a fuel adjustment clause, as part of the rate structure of either a gas or electric utility company, has been the subject of consideration by the Commission during the past few years. It arose initially in Commission Docket 7203, dated June 17, 1942, 44 PUR(NS) 65, respecting the gas rate schedules of The Connecticut Light & Power Company, in which docket the Commission expressed as follows its views respecting the public policy applicable to a fuel adjustment clause:

"It is a matter of common knowledge that the cost of fuel has advanced substantially within the past year and no one is in a position to predict what this cost will be in the immediate future or within the next few years. If a utility company is to remain financially sound as a means of serving the public, some recognition must be given to increase in the cost of fuel as a major item of expense incurred in the generation of electricity and the production of gas.

"As a general principle, the fuel adjustment clause points the way toward the solution of one of the most acute problems in the utility rate-making field, namely, that of integrating public utility rates, which are generally of a rigid nature, into a flexible national economy. The economic system of the country has been subjected in an increasing degree to strain by virtue of the tension occasioned by rigid public utility rates in a nonrigid general price situation. Anything that can be done to bring utility rates more nearly into harmony with the general economic system is to that extent a public gain. It should mean a better balance in the economic system and a more effective operation of economic forces.

Fuel adjustment clauses also bring about a reduction in customer payment during a period of falling prices in depression eras when customers are most in need of reducing their living expenses. Likewise the increase in price to a customer occurring in an upward swing of price levels takes place at a time when the ability of customer to pay, as measured in dollars, has in most instances moved upwards.

"Fuel adjustment clauses have been usual in electric power rates and in gas rates applicable to industrial consumers. They have come into use for household customers in recent years in this state and in many companies in Massachusetts and several other New England states."

The Commission in a later docket, Docket 7417, dated June 13, 1944, 54 PUR(NS) 57, approved a uniform fuel adjustment clause to be followed by electric utility companies in filing thereafter such a clause as part of their rate schedules. This order was made after a detailed consideration of the subject matter and agreement between the representatives of the electric utility companies and the Commission, following a public hearing, upon the elements that should comprise a fuel adjustment clause in order that it would be fair in its operation to both customers and companies.

The Commission has before it also, as a result of a recent hearing in Docket 7860, the matter of determining the principles which should underlie a uniform fuel adjustment clause for gas utilities. The principles proposed at that hearing are essentially the principles established with respect to electric utilities in Docket 7417 referred to above.

The Commission has also approved in its Docket 7818, dated July 18, 1946, a fuel adjustment clause, which is now in force within the territory of the Bridgeport Gas Light Company, and which is applicable to all classes of customers served by that company without regard to the quantity of their consumption.

The New Haven Gas Light Company purchases about 80 per cent of its daily requirements of gas from The Connecticut Coke Company at New Haven under a long-term contract between the two companies. The agreement between the parties provides that the base price of coal to be used to determine the excess cost of coke oven gas shall be $5.90 per gross ton. The price of coke oven gas as charged by The Connecticut Coke Company was subject to control by the Office of Price Administration until November 16, 1946, on which date the Office of Price Administration removed all controls on the price of coke oven gas. With the removal of price controls, the cost of coal used in the manufacture of coke oven gas increased from $6.47 per gross ton to $8.25 per gross ton, the current price of coal to The Connecticut Coke Company. During the same period the price of coke and oil used by the New Haven Gas Company in producing gas required by the company to supplement its purchase of gas from The Connecticut Coke Company has also increased.

The result of these price changes in fuels used in manufacturing gas will result in a substantial increase to the New Haven Gas Company of its cost of operation which for the year 1947 will be approximately $240,000 more than during the year 1946.

There have been, of course, marked increases in the price of bituminous coal sustained by The Connecticut Coke Company as a result of upward adjustment of wage levels in the bituminous coal field, railroad freight rates, and maritime freight rates. The New Haven Gas Light Company, like other utilities and industries generally, has been sustaining increases in its operating expenses, as a result of the general increase in price levels. Under the proposed fuel adjustment clause, it is intended to include only the essential fuels used in gas manufacturing, such as coal, coke, and oil.

This fuel adjustment clause is designed not to increase the company's net revenue but essentially to permit the company to recoup increases in the cost of fuel arising out of the postwar period and, at the same time, to give to the customers the benefit of any decrease in the cost of fuel that may occur in any subsequent downward trend of price levels.

The New Haven Gas Light Company has in force at the present time a fuel adjustment clause applying to Rate "E," Optional Industrial Rate, which is available for industrial customers who contract to use a minimum of 75,000,000 cubic feet of gas per year. This fuel clause, which became effective April 8, 1941, states as follows:

"In any month when the cost of coal delivered to The Connecticut Coke Company exceeds $5.90 per gross ton, the price of gas billed to the customer at 40 cents per thousand cubic feet shall vary at the rate of 1 cent per thousand cubic feet or the proportionate fraction thereof, for each 25 cents or any fraction thereof in the average cost per gross ton of coal above $5.90."

The basic difference between the fuel adjustment clause now applicable to the optional industrial rate only, and the fuel adjustment clause under consideration, is that, in the proposed clause, the increase or decrease in the fuel charge will be determined from the weighted average of both gas purchased from the plant of The Connecticut Coke Company at New Haven and gas manufactured by the New Haven Gas Light Company through its own gas generating facilities.

[1, 2] The company proposes in its fuel adjustment clause to use $5.90 per gross ton as the base price of coal for purchased gas. This price has been taken by the company from its contract with the Connecticut Coke Company and does not represent the average cost of coal to The Connecticut Coke Company during either of the 5-year periods mentioned hereinafter, namely, 1937–1941 and 1942–1946. For that portion of gas manufactured by the New Haven Gas Light Company (about 20 per cent of total daily requirements) the company proposes to arrive at the excess cost of these fuels by taking the average cost of coke and oil for the 5-year period, 1937–1941, inclusive, namely, $8.07 per net ton for coke and 4.1 cents per gallon for oil.

Analysis by the Commission of the cost of coal used in the manufacture of coke oven gas, of which the New Haven Gas Light Company purchases about 80 per cent of its daily requirements, discloses that the average cost of coal to The Connecticut Coke Company for the 5-year period, 1937–1941, inclusive, was $5.66 per gross ton and during the 5-year period, 1942–1946,

it was $6.45 per gross ton as compared with the current cost of $8.25 per gross ton. Whichever price is used, $5.90 or $6.45 per gross ton, to arrive at the excess cost of coal, the New Haven Gas Light Company will not recoup in the operation of the fuel adjustment clause the entire increase to it of the additional cost of fuel for the reason that the company does not propose to apply the fuel clause in billing its customers for their consumption 5,000 cubic feet or less of gas per month. As stated above, the increase in fuel costs to the New Haven Gas Light Company for the year 1947 will approximate $240,000. On the basis of $5.90 per gross ton for coal for purchased gas, the company on an annual basis would recoup about $213,000, or about $27,000 less than the total increase in fuel costs. On the basis of $6.45 per gross ton for coal the proposed fuel adjustment clause will produce $186,000 annually or about $54,000 less than the company's total increase in fuel costs. Though the net difference to the company between the application of the two base prices mentioned above, i. e., $5.90 and $6.45 per gross ton, is relatively small in amount, the principle upon which the base price of coal should be determined merits consideration. In the instant case the company has been able to absorb the increase above $5.90 per gross ton passed on to it by its supplier of gas, The Connecticut Coke Company, without increasing bills to its customers to whom it distributes gas; and, if control of prices by the Office of Price Administration of coke oven gas had not been removed, as it was on November 16, 1946, the New Haven Gas Light Company would not now be before this Commission seeking relief.

The Commission, therefore, believes that the fair base price for coal to be used for purchased gas should be the 5-year average cost of coal just prior to price decontrol, 1942–1946, inclusive, i. e., $6.45 per gross ton and that the base price should not be $5.90 per gross ton, the price used in its contract with The Connecticut Coke Company, as requested by the gas company.

Only 54.3 per cent of the total estimated sales of gas for 1947 will be affected by the functioning of the fuel clause, since the clause applies only to those sales of gas over 5,000 cubic feet per month. It is estimated that for the year 1947 the proposed fuel adjustment clause will affect about 8,700 customers or 12 per cent of the company's 73,000 customers.

The company's intention of not applying the fuel adjustment clause to the block of consumption of any customer represented by the first 5,000 cubic feet per month has the consequence of limiting the amount of recoupment the company will obtain in the operation of the fuel adjustment clause. It will also have the consequence of exempting the small consumer, whether he be residential or commercial, who uses gas in relatively low quantities. Hence, as stated above, the greater number of residential customers would not sustain any increase in their bills as a result of the adoption of the fuel adjustment clause. In computing the fuel adjustment charge the company will use as a divisor the total quantity of gas sold. It follows, therefore, that in the operation of the fuel adjustment clause the company

is not placing a heavier charge on the larger consumers by virtue of the company's decision to absorb the excess cost of fuel to those customers to whom the fuel adjustment clause does not apply. In view of that fact and in view of the further fact that the fuel adjustment clause does not recoup for the company the full impact of the increase in fuel costs, it does not appear that the fuel adjustment clause will create any discrimination against the larger consumers of gas by virtue of exempting the average residential customer from the impact of the clause in its operation.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Hendersonville Water Company

Complaint Docket No. 14168
January 27, 1947

COMPLAINT *by consumers against inadequate water service; improvement in service ordered.*

Service, § 123 — Inadequate water supply — Refusal of meters.

1. A water utility which conceded that its water supply was not sufficient to enable it to render adequate service, but did not wish to obtain an additional supply until all consumers had agreed to the installation of meters, was ordered to diagnose and correct service inadequacies immediately at its own expense, p. 111.

Service, § 123 — Duty to serve — Water — Responsibility for supply.

2. A water utility is responsible for the adequacy and quantity of water service rendered to its consumers and must act promptly to obtain an additional source of water when its existing supply becomes inadequate, p. 111.

By the COMMISSION: This is an inquiry and investigation instituted on the Commission's own motion, under the provisions of §§ 412 and 413 of the Public Utility Law, for the purpose of determining the character of water service being furnished by Hendersonville Water Company and the reasonable, safe, sufficient service to be observed or the facilities to be furnished and employed.

Hendersonville Water Company was organized early in 1946 for the purpose of supplying water to the residents of the unincorporated village of Hendersonville, Cecil township, Washington county, a community of approximately 320 inhabitants. The

majority of residents occupy houses formerly owned by Pittsburgh Coal Company. Prior to May 7, 1946, water was furnished, without charge, to the tenants of these houses by the coal company from and through its own facilities. Hendersonville Water Company acquired these facilities and since May 7, 1946, such water service has been offered to its consumers at a monthly flat rate of $2.50 per family.

Respondent's sources of water supply are a drilled well 124 feet in depth, and two springs located about 100 yards from each other. Water from the well is pumped to two circular wooden tanks located on a hill at the highest elevation in the village. The flow from the two springs is delivered through a 2-inch diameter pipe into a 4,500 gallon circular wooden tank, from which it is pumped to the aforesaid tanks. Water from high level tanks flows by gravity to the different parts of the system.

On October 3, 1946, Albert C. Aureli, a resident of Hendersonville and a consumer of the water company, filed a complaint on behalf of 101 residents of the village, alleging inadequate water service. The complaint stated that during August, 1946, the water service to consumers was intermittent and that during September the service was negligible, water being available for periods of only five or ten minutes a day. Subsequently, the Commission instituted the present inquiry and investigation.

At the hearing, testimony was given by Mrs. Zelma Brunett, Mrs. Clyde Behling, Mrs. Mary Katrencik, Reverend Fred Slater, and Albert C. Aureli, all consumers of respondent; Boyd McClure, superintendent of Hendersonville Water Company, and Fred C. Hill, a Commission engineer. In addition, twenty-four other consumers stated of record that their testimony as to service inadequacies would be substantially the same as the testimony given by the other witnesses.

Mrs. Brunett testified that service was adequate when the coal company furnished water to the community; that service was fairly good for several weeks after respondent began furnishing service, but that conditions rapidly became worse, and that she has been carrying water for several months. Mrs. Behling testified that her husband conducts the hotel in the village; that service has been fairly good during the day, but that it was very often discontinued at night. She further stated that service during the summer months was better than during the fall months of 1946. The testimony of Mrs. Katrencik and of Reverend Slater was substantially the same as that of Mrs. Brunett.

Mr. Aureli testified that respondent began furnishing water service on May 7, 1946, and that service was fairly good for about one and one half months thereafter. Following that, he had no water for a period of about two months. In November, 1946, he was able to obtain water about twice weekly for a period of approximately fifteen minutes on each occasion. Mr. Aureli further testified that a water committee was formed in the village; that meetings were held, one of which was attended by Mr. McClure, superintendent of Hendersonville Water Company, and that efforts were made to have respondent improve its service.

Fred C. Hill, a Commission engineer, testified that he made a field investigation of the alleged service inadequacies at Hendersonville on November 20, 1946. He visited 21 properties, 15 of which were totally without water service, the remaining 6 having varying degrees of flow. Two of the 6 properties were the hotel and the Champion Coal Company office, both located at the lowest elevation in the village. Mr. Hill further testified that the existing water supply would be sufficient to serve the village, provided there was a delivery of 12 gallons per minute day and night, from the deep well (9 gallons) and the springs (3 gallons) as stated by respondent's Superintendent McClure on November 20, 1946.

[1, 2] Mr. McClure, superintendent of Hendersonville Water Company, was the only witness for respondent. Among other things he admitted that the present water supply for the 112 consumers is not adequate. Mr. McClure testified that, subsequent to November 26, 1946, further tests were made which revealed that the yield from the deep well is only 2½ gallons per minute. He stated that, of the 112 consumers, 74 have signed applications for water service, and of that number 27 have paid the required cash deposit and only 5 consumers have paid their monthly flat rate bills up to November 1, 1946. Mr. McClure further stated that the water company had commenced the installation of meters in consumers' properties; that only 13 meters had been placed because "people refused to have them installed," and that Hendersonville Water Company does not feel obligated to obtain an additional source of supply until the 112 consumers sign applications for service, make deposits, and accept metered service.

Respondent is in violation of § 401 of the Public Utility Law, which requires every public utility to furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and to make all such repairs, changes, alterations, and improvements in or to such facilities and service as shall be necessary or proper for the accommodation, convenience, and safety of its patrons. Respondent is responsible for the adequacy and quality of water service rendered to its consumers and is obligated to diagnose and correct such inadequacies at its own expense.

Upon full consideration of all matters and things involved, we find and determine (1) that the water service rendered by respondent company is not satisfactory or adequate; and (2) that respondent company should take the necessary steps promptly to obtain an adequate additional source of water supply; therefore,

It is *Ordered:*

1. That the complaint be and is hereby sustained.

2. That Hendersonville Water Company, respondent, shall forthwith proceed to obtain, within sixty days of service of this order, an additional water supply sufficient to enable it to render adequate service to its patrons.

LOUISIANA PUBLIC SERVICE COMMISSION

Louisiana Public Service Commission

v.

Oak Grove Utilities Company, Incorporated et al.

No. 4350, Order No. 4442
December 14, 1946

PROCEEDING *on Commission motion to prescribe uniform system of accounts for electric companies; uniform system adopted.*

Accounting, § 6 — Uniform system of accounts.

The Uniform System of Accounts for Electric Public Utilities as adopted by the National Association of Railroad and Utilities Commissioners at its annual convention in 1936, with certain modifications, was deemed a reasonable system of accounts for electric companies in that it had been developed from actual public utility accounting practice, was peculiarly adapted to public utility economics and contained special provisions to eliminate the imposition of the undue burden of too great detail upon smaller electric utility companies.

By the COMMISSION: This proceeding was initiated by the Commission on its own motion for the purpose of prescribing "A Uniform System of Accounts for Electric Public Utilities" and for the purpose of requiring all electric public utilities in the state of Louisiana subject to the jurisdiction of the Commission to adopt, comply with, and conform to the said "Uniform System" in all of their books, records, accounts, and accounting procedures.

By citation and show cause order dated April 9, 1946, respondents were notified of the purpose of the proceeding and at a subsequent formal hearing on the show cause order on May 8, 1946, respondents filed answers and other pleadings.

At this formal hearing on May 8, 1946, the Commission served copies of the tentative proposed "Uniform System of Accounts for Electric Public Utilities" on all of respondents, and ordered that respondents file within forty days further answers setting out all exceptions, objections, suggestions, and recommendations to said proposed "Uniform System of Accounts."

After expiration of the above-mentioned forty days and pursuant to due and legal notice, the matter came up for further hearing before the Commission at Baton Rouge on July 29, 1946. As a result of this hearing, the

Commission issued an order dated August 17, 1946, requiring respondents to form a committee to consolidate the exceptions, objections, suggestions, and recommendations contained in all of the answers and pleadings, and ordering that respondents have this committee meet with the staff of the Commission for the purpose of eliminating noncontroversial, overlapping, and repetitious issues.

Pursuant to this order, the abovementioned committee was organized, consolidated the answers and pleadings of respondents, and met with the staff of the Commission and presented and discussed the consolidated recommendations with the staff. The organization, proceedings, and recommendations of this committee are in the record of this proceeding.

After due notice to all respondents, final hearing was held before the Commission at Baton Rouge on December 3, 1946. At this hearing, the abovementioned committee report was received and placed in the record and testimony was presented by the Commission staff as to the necessity for "A Uniform System of Accounts for Electric Public Utilities" and as to the origin, development, reasonableness, and widespread use of the "Uniform System of Accounts for Electric Public Utilities," as prescribed and recommended by the National Association of Railroad and Utilities Commissioners at its annual convention in 1936. Evidence was presented and discussion was also had as to interpretations, to be applied to the "Uniform System" in the light of the Commission's Order No. 4346, Docket No. 4271 (1946) 65 PUR(NS) 18, and in the light of recommendations as to these interpretations made by respondents' committee.

After the hearing of this evidence and discussion, respondents were individually called upon by the Commission's secretary to enter any dissenting exceptions, objections, suggestions, and recommendations which they desired to make.

Having considered the pleadings filed herein, the recommendations made herein by respondents, both individually and through their committee, the recommendations of the Commission staff, the evidence in the record, the law, and the public interest involved, the Commission finds that:

I

In order for the Louisiana Public Service Commission to properly carry on its duties and exercise its powers as conferred by Art VI, § 4 of the Constitution of the state of Louisiana for the protection of the public interest, it is convenient, appropriate, and necessary that the Commission prescribe a "Uniform System of Accounts for Electric Public Utilities" in the state of Louisiana, and require every electric public utility in the state of Louisiana subject to the jurisdiction of the Commission to adopt, use, and comply with said "Uniform System of Accounts."

II

The "Uniform System of Accounts for Electric Public Utilities" as adopted by the National Association of Railroad and Utility Commissioners at its annual convention in 1936 is a reasonable "System of Accounts" for the electric public utility business in that said "System of Accounts" has been developed from actual public utility ac-

counting practice, is peculiarly adapted to public utility economics, and contains special provisions to eliminate undue burdens of too great detail being imposed on smaller electric public utilities.

III

The proper functioning of a "Uniform System of Accounts for Electric Utilities" will require reasonable application and interpretation of various detailed accounts and practices to diverse situations and conditions in various electric public utilities.

After consideration of the findings made above the Commission, therefore, *orders:*

I

A "Uniform System of Accounts for Electric Public Utilities" is hereby adopted and prescribed for every electric public utility in the state of Louisiana subject to the jurisdiction of this Commission.

II

The system of accounts herein adopted and prescribed shall be known as "Louisiana Public Service Commission System of Accounts for Electric Public Utilities."

III

The said "Uniform System of Accounts" hereby adopted and prescribed shall be in the words identical with "Uniform System of Accounts for Electric Utilities" as adopted and recommended by the National Association of Railroad and Utility Commissioners at its annual convention in 1936 and as set out in booklet containing said system published by the State Law Reporting Company, 30 Vesey street, New York, N. Y., copyright 1937, except for the following modifications and amendments:

A. "Account 100.5—Utility Plant Acquisition Adjustments"—paragraph (c) is hereby amended to read as follows: "The amounts recorded in this account with respect to each property acquisition may be allowed to remain in this account or may be depreciated, amortized, or otherwise disposed of, as the Commission may approve."

B. "Account 537—Miscellaneous Amortization" is hereby amended to read as follows: "This account shall include amortization expenses not elsewhere provided for in this system of accounts as the Commission may, by order, require to be included herein."

IV

The Commission herewith reaffirms the principles and policies heretofore announced in its Order No. 4346, Docket No. 4271, *supra,* and in so far as these principles and policies apply to accounting, they are hereby adopted and ordered as official Commission interpretations of the "Uniform System of Accounts for Electric Public Utilities."

V

Such further interpretations, applications, and amendments of the said "Uniform System of Accounts" as may be necessary and advisable shall be made by the Commission in accordance with due process of law; jurisdiction of this cause for this purpose is hereby reserved and retained.

VI

The Louisiana Public Service Commission "Uniform System of Accounts for Electric Public Utilities" is hereby

made effective on January 1, 1947, and every electric public utility within the state of Louisiana, subject to the jurisdiction of this Commission is hereby *ordered, commanded,* and *required* to adopt, use, and comply with said "Uniform System" and to make all changes, modifications, and reclassifications of accounts necessary for compliance therewith, unless good cause can be shown by any electric utility why some other effective date should be used.

NEW YORK PUBLIC SERVICE COMMISSION

Re Reorganization Committee of New York State Railways (Utica System)

Case 8979
December 17, 1946

PETITION *of reorganization committee of railway company for approval of proposed reorganization plan and authority to issue stock; order withheld pending presentation of definite plan in accordance with opinion.*

Security issues, § 94 — Common stock — Notes — Recapitalization.

1. The Commission may approve the issuance of common stock only, upon reorganization of a corporation, although there may be distinct advantages in a proposal to issue income notes and common stock, such as the deduction of interest in computing income taxes, p. 118.

Security issues, § 108 — Par value common stock — Capital surplus reserve.

2. The issuance of common stock at a par value of only $1 and the placing of a large amount of remaining net assets in capital surplus cannot be approved, p. 118.

Security issues, § 87 — Stock and surplus.

3. The issuance of $225,800 of par value stock and the creation of a capital surplus of $878,318 results in an unbalanced condition which is not only undesirable but offers opportunity for speculation in stock, p. 118.

Security issues, § 97 — No-par value stock — Reorganization purposes.

4. In the case of a reorganized corporation, where the certificate of reorganization is to be filed before determination by the Commission as to the amount of common stock to be authorized, it is preferable to designate common stock without par value, but in view of the additional cost resulting from the issuance of no-par value stock, the Commission should not insist upon no-par value provided the number of shares to be authorized is reasonable in comparison to the net assets to be represented thereby and the par value is substantial in amount, p. 118.

Security issues, § 92 — Amount of issue — Underlying assets.

5. To issue 225,800 shares of common stock with a par value of $1 per

share, or a maximum par value of $4 as proposed by a reorganization committee, against a net worth of approximately $1,000,000 is not sound in principle, or in the interest of bondholders, however attractive it might be for speculation, p. 118.

Security issues, § 108 — Par value stock — Amount of par value.

6. If par value stock is to be authorized for a reorganized corporation, it should have a substantial par value (a minimum of $10 per share) and not a nominal par value, when it is to be the only security issued, p. 119.

APPEARANCES: Ferris, Burgess, Hughes & Dorrance (by Thayer Burgess), Utica, Attorneys, for Reorganization Committee of New York State Railways.

BREWSTER, Commissioner: On May 28, 1946, the Commission approved a modified plan of reorganization of New York State Railways (Utica System), and certified its approval to the United States district court. That plan as so approved provides that the new corporation shall issue 20-year, 4 per cent, income notes in such aggregate principal amount as may be approved by the Commission, such notes to be callable on thirty days' notice at face value and accrued interest and to contain such sinking-fund provisions and other provisions as may be approved by the reorganization committee, the Public Service Commission, and the court. This plan also provides that the reorganized corporation shall issue common stock in such amount as may be approved by the reorganization committee, the Public Service Commission, and the court. The plan as proposed by the company was for the issuance of par value stock with a nominal par value of $1. The Commission, however, in approving the plan expressed its opinion that the stock should be no-par value stock. The approval of the plan did not fix the amount of income notes or of common stock which could be issued. Determination as to the amounts cannot be made until the plan of reorganization has been carried out and the reorganized corporation is in position to apply to the Commission for authority to issue securities.

Early in October, Mr. Thayer Burgess, counsel, representing the reorganization committee communicated with the Commission and requested a further hearing at which the reorganization committee could present as an alternative proposal the issuing of common stock only and the elimination of income notes from the plan. A hearing was held on October 18, 1946, at which Mr. Burgess appeared and stated that since the approval of the modified plan of reorganization and the certification of such plan by the Commission to the court, certain of the bondholders who would receive the income notes and common stock issued in accordance with the approved plan have expressed an interest in an alternative plan which would provide for the issuing of common stock only. He stated that the reorganization committee desired to make no change in the plan as approved by the Commission except to eliminate the issuance of income notes. He further stated that the reorganization committee was not withdrawing the plan as approved by the Commission, but was

offering the suggested change as an alternative proposal only. If the Commission approves the alternative plan, the reorganization committee could act upon either of the proposals, the first being the issuing of both income notes and common stock, and the second being the issuing of common stock only.

Mr. Burgess stated at the hearing that the reorganization committee desired to issue 225,800 shares of common stock with a par value of $1 per share, making a total of $225,800 par value, and that all of such common stock be issued to the bondholders of the Utica-Mohawk Valley Railway Company bonds outstanding in the face amount of $2,258,000. He stated that these bondholders represented the only creditors and the only ones who would be entitled to share in the proposed capital stock issue. He further stated: "Those who are interested in and prefer the issue of common stock would not, I am sure, object to an increase in the par value of the shares so that they could be, for example, $2 a share, or $3 a share. . . . It might even run it to $4 a share."

As before noted, the Commission in approving on May 28, 1946, the modified proposal then before it indicated its opinion that the common stock to be issued should be no-par stock. Mr. Burgess urged approval of the Commission to the issuance of par value common stock instead of no-par value and stated that the bondholders felt that they would be "greatly penalized, either in the original plan which has been approved by the Commission or in this alternative plan, if they are compelled to use no-par stock rather than stock having a low dollar par value, for the reason that the organization tax in this state . . . is 1/20 of one per cent of the par value. The organization tax on no-par stock is 5 cents a share. So that if the Commission authorized 225,800 shares of $1 par, the organization tax would be $112.90. For the same number of shares of no-par stock the tax would be $11,290."

"Furthermore, upon the issue of par stock the Federal stamp tax is 11 cents per $100 of par value, or fraction, which would require, for 225,800 shares of $1 par, $248.38. On no-par stock the issue tax, stamp tax, is 11 cents a share, or $24,838."

He pointed out that if the stock had a par value of more than $1 per share, it would increase the organization tax and the issue stamp tax somewhat, but that it would not be a material amount, whereas, with no-par stock it would be a very material sum.

On May 28, 1946, the Commission approved a memorandum by me, dated May 27, 1946, which discussed the modified plan then before the Commission. That plan included the filing of a certificate of reorganization with the secretary of state, which certificate set forth the amount of capital which the reorganized corporation would have, and it, therefore, was necessary for the Commission to consider and pass upon the assets and liabilities which would be turned over to the reorganized corporation. The plan contemplated the reorganized corporation holding the nonoperating property, consisting mainly of right-of-way lands. The trustee after the filing of the certificate of reorganization was to transfer all of the operating property, including the franchises and the consents and to also turn over to the new

corporation the nonoperating property. All of the facts concerning the modified plan are set forth in my memorandum and it seems unnecessary to discuss these in detail here.

[1, 2] In my memorandum of May 27th, I set forth certain factors and principles which should be given consideration when the application to issue securities comes before the Commission for determination. These factors and principles are equally applicable if it is determined to issue common stock only and to eliminate income notes. While there are distinct advantages in the proposal to issue income notes and common stock, such as the deduction of interest paid on the notes in computing income taxes, there appears to be no fundamental reason why the Commission cannot approve the issuing of common stock only. If that is done, however, there are certain general principles which should be considered. The wish of the reorganization committee that the Commission approve of an issue of 225,800 shares of common stock at $1 par value and the placing of the remaining net assets in capital surplus cannot be approved.

[3] Mr. R. J. Nicholson, consultant to the auditor of New York State Railways presented at the hearing on October 18th a pro forma balance sheet as of September 30, 1946, which was received as Exhibit 33. That balance sheet sets forth net worth of $1,104,-118. It is not necessary to analyze that balance sheet at this time. There will undoubtedly be changes before the application is made for the issuance of securities and the balance sheet as of that date can be analyzed as of that time. However, assuming for present discussion purposes only that the net assets as shown on the balance sheet reflect the actual net worth, the proposal of the reorganization committee would result in the issuing of a total of $225,800 of par value stock and the creation of a capital surplus of $878,-318. It should be evident without further discussion that such an unbalanced condition is not only undesirable but offers opportunity for speculation in the stock of the company.

[4, 5] There appears to be no sound reason for issuing such a large number of shares as is proposed. The only reason given is that it would be desirable to give the holder of each $1,000 bond 100 shares of capital stock. However, this is a very large number of shares of stock to issue for the prospective net assets of approximately $1,000,000. Petitioner states as an objection to the issuing of no-par value stock the comparatively large cost of no-par value stock. That cost, however, is based upon the issuing of 225,-800 shares. If instead of issuing the proposed 100 shares of stock for each $1,000 bond, there should be issued 10 shares of stock, the additional cost of issuing no-par stock instead of par stock would be materially reduced. In the case of a reorganized corporation where the certificate of reorganization is to be filed before determination by the Commission as to the amount of common stock to be authorized, it seems preferable to designate common stock without par value. However, in view of the additional cost the Commission should not insist upon no-par value provided the number of shares to be authorized is reasonable in comparison to the net assets to be represented thereby and the par value is

substantial in amount. Common stock represents the equity in the corporation whatever that may be. Whether the common stockholder has 10 shares or 100 shares, his proportionate interest in the corporation is exactly the same. Many of these bondholders have held their bonds for a good many years in the hope of recovering something. Whatever evidence of their proportionate ownership in the reorganized corporation is issued to them should rest on a firm foundation and have real, not speculative, value. To issue 225,800 shares with a par value of $1 per share, or a maximum par value of $4 as proposed by the reorganization committee, against a net worth of approximately $1,000,000 or less, does not appear to be sound in principle, or in the interest of those bondholders, however attractive it might be for speculation. Nor does the estimate of prospective net earnings applicable to dividends justify so large a number of shares.

[6] If par value stock is to be authorized, it should have a substantial par value (a minimum of $10 per share) and not a nominal par value in view of the proposal that it be the only security to be issued.

Although there are certain advantages in issuing no-par value stock, I believe that, in view of the difference in the cost of issuing, the Commission should authorize par value stock, if petition to do so, provided the number of shares to be issued at this time is reasonable compared to the net worth and prospective net earnings, and that the par value is substantial in amount.

The final determination as to the number of shares to be authorized by the Commission must await the application of the reorganized corporation to issue capital stock, at which time the Commission will have before it the then financial condition.

I recommend that a copy of this memorandum be sent to the reorganization committee for their guidance. The reorganization committee should make definite decision as to which plan they will adopt and present the same to the Commission for final approval, accompanied by the certificate of reorganization for Commission action. The Commission has certified to the United States district court its approval of a plan. An alternative plan is now presented, the only change being the issuance of common stock only in place of common stock and income notes. The Commission will have to certify to the court the final plan but before doing so it must know which plan it is asked to finally approve.

This matter has been held in the hands of the committee unduly long. The present bondholders who have waited for years for this reorganization to be completed are entitled, as the future stockholders, to have the new company formed. The Commission expects that the final petition will be submitted within sixty days.

MISSOURI PUBLIC SERVICE COMMISSION

Re United Utilities Corporation et al.

Case No. 10,968
February 5, 1947

APPLICATION *for authority to acquire franchises, properties, and assets of another utility and for authority to operate such properties; granted.*

Consolidation, merger, and sale, § 23 — Operating economies — Financial benefit.

1. An electric company was authorized to purchase the franchises, properties, and assets of another electric company where the properties to be acquired would form an integral part of the purchaser's electric system and the operation of these properties by the purchaser would result in economies which would be reflected in better service and eventual lower rates for all classes of its customers, and where the consumers of the selling company would benefit by the sale, p. 123.

Accounting, § 32 — Acquisition costs — Amortization period.

2. The Commission, in authorizing the acquisition of utility properties, limited amortization of acquisition costs to a period not to exceed seven years where evidence indicated that the acquisition costs should be completely amortized over a period of approximately five years, p. 124.

By the COMMISSION: This case is before the Commission upon a joint application, filed December 2, 1946, by United Utilities Corporation, hereinafter sometimes referred to as United Utilities, for authority to sell, and St. Joseph Light & Power Company, hereinafter sometimes referred to as St. Joseph, for authority to purchase all of the franchises, properties, and assets, except cash on hand, owned and operated by United Utilities in the state of Missouri on the terms and conditions as outlined in a purchase agreement dated November 8, 1946, signed by the two applicants, and for authority for St. Joseph to own and operate the said properties and to record same in its books in accordance with the entries proposed in the application; also authority for St. Joseph to file within sixty days after acquiring said properties new schedules of rates for the customers now being served by United Utilities which new rates shall be designed to reduce gross operating revenues approximately 10 per cent under the rates presently in effect.

After notice to all interested parties, a hearing on the joint application was held in Jefferson City, Missouri, on January 17, 1947, at which time evidence was introduced and testimony presented by the applicants relevant to the prayers enumerated in the application. No one appeared in opposition to the granting of the authority requested and at the conclusion of the hearing the case was submitted on the record. The city counselor of St. Joseph, Missouri,

stated in a letter addressed to the Commission, dated January 9, 1947, that inasmuch as the application concerned the acquisition of property outside the city limits of St. Joseph the city had no interest in the matter.

The evidence shows that United Utilities is a public utility corporation duly organized and existing under the laws of the state of Missouri, having its office and principal place of business at 216 North 7th street, St. Joseph, Missouri. It owns and operates electric transmission and distribution lines and facilities in the counties of Andrew, Buchanan, DeKalb, and Holt, all in the state of Missouri, including electric distribution systems in the incorporated municipalities of Forest City, Fillmore, Amazonia, Stewartsville, and Clarksdale, and also in a number of unincorporated towns, villages, and rural communities.

St. Joseph is a public utility corporation duly organized and existing under the laws of the state of Missouri, having its principal office and place of business at 520 Francis street, St. Joseph 2, Missouri. It owns and operates an electric light and power plant and distribution system in the city of St. Joseph, Missouri, and vicinity, and also owns and operates electric transmission and distribution lines and facilities in the counties of Andrew, Buchanan, Clay, Clinton, Holt, and Platte, all in the state of Missouri, including electric distribution systems in the incorporated municipalities of Savannah, Oregon, DeKalb, Rushville, Agency, and Gower, and also in a number of unincorporated towns, villages, and rural communities.

The electric system of St. Joseph is interconnected with the system now owned and operated by United Utilities and United Utilities is now purchasing, and for many years has purchased, all of its electric energy requirements from St. Joseph.

United Utilities and St. Joseph have heretofore entered into a written purchase agreement, dated as of November 8, 1946, wherein United Utilities has agreed to sell and St. Joseph has agreed to purchase, subject to the approval of the Commission, all of the franchises, properties, and assets owned and operated by United Utilities in the state of Missouri, except cash on hand, for a cash consideration of $211,260, plus the amount, if any, of the excess of the current assets (less cash on hand) over the current liabilities (excluding dividends and interest) existing at the closing date and also plus the amount of net additions to plant from July 1, 1946, to the closing date.

St. Joseph stated that the proposed purchase will be financed out of funds now on hand and available for this purpose. It was also stated that if it is allowed by the Commission to purchase the said properties, such properties will become an integral part of the electric system now owned and operated by St. Joseph.

St. Joseph further stated that if it is allowed by the Commission to purchase said properties it proposes to and requests the following authority from the Commission:

(a) To pay from its Cash Account (Account 120) and to charge to Account 391, Electric Plant Purchased, the cost of acquisition, including proper expenses incidental thereto, of the electric property acquired at date of acquisition;

(b) To charge to its other electric

plant accounts and to credit Account 391, Electric Plant Purchased, with the original cost of the United Utilities electric property as of July 1, 1946 as determined by this Commission in its Case No. 10,879 (plus any proper expenses incidental to such acquisition) plus the cost of net plant additions after July 1, 1946, to date of acquisition;

(c) To set up as a reserve for depreciation the amount of $31,800 representing approximately 15 per cent of the original cost of depreciable property as of July 1, 1946, and to charge said amount to Account 391, Electric Plant Purchased, and to currently credit to Account 250, Reserve for Depreciation of Electric Plant, an equivalent amount;

(d) To close the amount remaining in Account 391, Electric Plant Purchased, to Account 100.5, Electric Plant Acquisition Adjustments, to be amortized over a period not to exceed fifteen years;

(e) Apply to the properties acquired hereunder the same rates for accruing depreciation as have been heretofore approved by this Commission by its Supplemental Order No. 4 in Case No. 10,202 for comparable classifications of property of St. Joseph; and

(f) Within sixty days after the acquisition of such properties, file new schedules of reduced rates for the various classifications of customers theretofore served by United Utilities, on a basis estimated by St. Joseph to bring about an annual reduction of 10 per cent of the gross revenue now being received by United Utilities from its customers at their present rate of usage of electricity; provided that the difference between the actual gross revenue from such reduced rates applied to customers in the communities heretofore served by United Utilities, and the estimated gross revenue which would be received from such customers on the basis of schedules of rates applicable to comparable communities presently served by St. Joseph, shall be assumed to be applicable to the amortization of the amount to be set up by St. Joseph in Account 100.5, Electric Plant Acquisition Adjustments, as herein proposed until such accumulated difference shall equal such amount in Account 100.5 Electric Plant Acquisition Adjustments, but in no case for a period of more than fifteen years.

A witness for St. Joseph, in his testimony, pointed out that the proposed journal entries were all in accordance with accounting methods prescribed in the Uniform System of Accounts. The proposal to set up a reserve for depreciation in the amount of $31,800, representing approximately 15 per cent of the original cost of depreciable property as of July 1, 1946, of United Utilities, was based on the per cent condition of the property as determined by engineers of St. Joseph. The witness stated that the company's engineers had made a field study of this property and determined that it was in approximately 85 per cent condition and it was on this assumption that St. Joseph proposes to set up a reserve for depreciation of $31,800 on this property. The rates for accruing depreciation in the future on this property would be the same rates for comparable classifications of property as are presently being used by St. Joseph as ordered by the Commission.

The witness also testified that the approximate amount that would be

charged to Account 100.5, Electric Plant Acquisition Adjustments, would be $33,000, of which approximately $2,500 would represent expenses applicable to obtaining the property which included the engineering, auditing, and legal expenses borne by St. Joseph. He pointed out that St. Joseph proposes, as an integral part of the plan, within sixty days after the acquisition of the properties of the United Utilities to file new schedules of reduced rates for the various classifications of customers of United Utilities on a basis estimated to bring about an annual reduction of 10 per cent of the gross revenue now being received at the present rate of usage of electricity. This reduction, in his opinion, would amount to approximately $7,500 per year. The difference between the actual gross revenue to be received from such reduced rates and the estimated gross revenue which would be received on the basis of schedules of rates applicable to comparable communities presently served by St. Joseph was estimated to be $7,000 per year which amount St. Joseph would use to amortize the balance which will be recorded in Account 100.5, Electric Plant Acquisition Adjustments, in connection with this acquisition.

On the basis of these figures the acquisition account would be amortized in a period of approximately five years at which time the present customers of United Utilities would receive a further rate reduction to bring their rates to the same level as those charged the other electric customers of St. Joseph. The witness also stated that, in his opinion, the acquisition of the property of United Utilities by St. Joseph would result in important economies of operation which over a period of time he believed would be realized in the approximate amount of $14,000 per year.

Evidence was also introduced that the net additions to plant for the period from July 1, 1946, to December 31, 1946, made by United Utilities totaled $5,750.39. A statement of the current and accrued assets and the current and accrued liabilities at December 31, 1946, of United Utilities also showed an excess of current assets over current liabilities of $4,049.40. Using these figures as a basis, had the agreement dated November 8, 1946, been consummated on December 31, 1946, the total purchase price would have been $221,059.79.

[1] Having examined the evidence, the Commission is of the opinion that the authority requested by the applicants, with the exception of the period of amortization, is just and reasonable and in no way detrimental to the public interest. The property to be acquired by St. Joseph will form an integral part of its electric system and the operation of these properties by St. Joseph should result in economies which should reflect in better service and eventual lower rates for all classes of its electric customers. The present customers of United Utilities will be the immediate beneficiaries of a rate reduction which will reduce rates 10 per cent below the level presently being charged. As the acquisition costs of St. Joseph in acquiring this property are amortized these same customers will receive a further rate reduction, bringing their rate level to the level being charged to other customers of St. Joseph. This will bring about a further annual saving of approximately $7,000. Thus, the consumers on United Utilities lines

will benefit to the extent of $7,500 annually at once and $7,000 more each year at the completion of the amortization. The annual benefit in rate reductions alone will then be approximately $14,500.

The Commission is aware that in eleven out of the last fifteen years United Utilities has operated at a deficit. This has occurred in spite of the fact that the rate level of the company is approximately 20 per cent higher than St. Joseph which operates in the same general area. Also the presently outstanding first mortgage bonds of United Utilities, bearing interest at the coupon rate of 6 per cent per annum, matured on August 1, 1941, and during a portion of their life, and since their maturity, the bondholders have accepted an interest rate considerably less than the coupon rate of the bonds. In 1945 interest at the rate of 2½ per cent per annum was paid on the issue. The fact that these bondholders have not required the company to face receivership is due largely to the negotiations between the bondholders and the principal stockholders. Most certainly this arrangement cannot be expected to continue indefinitely.

With its past earnings record it is extremely doubtful if United Utilities would ever be able to refund its obligations. The territory served is in the same area as St. Joseph and many of their transmission and distribution lines are contiguous. Hampered by lack of capital and geographically surrounded by a larger and stronger utility the company cannot hope to extend its operations in the future to any important degree and in this way alleviate its financial difficulties.

Examining the facts before us, we feel the present customers of United Utilities will be materially benefited by the acquisition of this property by St. Joseph, not only by the immediate rate reduction, and the rate reduction which they will receive at the end of the amortization period, but by being served by a stronger, better financed utility which should be reflected in better service. While the Commission in previous cases has objected to attempts to charge amortization costs as operating expenses, in this case, the benefits to the customer are so obvious and convincing we believe the limited charges requested are reasonable. St. Joseph in acquiring this property should not be expected to suffer this loss or forego a return on its investment in the property for a period. Likewise, the present customers of St. Joseph should not be required to bear a portion of these costs. The plan as proposed places the costs upon the ones benefited by the transaction.

[2] The evidence indicates that the acquisition costs should be completely amortized over a period of approximately five years. Under the circumstances we can see no reason for the request in the application that the period of amortization shall be over a period not to exceed fifteen years. In our order we shall limit the amortization to a period not to exceed seven years. With this exception the prayers requested in the joint application will be granted.

Re Capital Transit Company

Order No. 3151, P.U.C. No. 3413, Formal Case No. 346
February 7, 1947

INVESTIGATION *of depreciation reserves and accruals for transit company property; composite depreciation rate approved. For earlier order relating to this matter, see (1945) 61 PUR(NS) 1.*

Depreciation, § 24 — Transit company — War addition.

1. An additional accrual for depreciation of transit company property in a flat amount, provided by a prior order, by reason of the extraordinary wear and tear resulting from wartime conditions, was discontinued, p. 125.

Depreciation, § 72 — Transit company.

2. A composite rate of 4.9 per cent applied to the cost of depreciable property of a transit company was approved as a reasonable and adequate accrual for depreciation, p. 125.

By the COMMISSION: Order No. 2913, April 27, 1945, among other things, ordered an investigation to determine to what extent the present reserve for depreciation and future accruals thereto should be segregated by various classes of property. Under date of December 31, 1946, the company submitted a proposed approximate allocation of the depreciation reserve as of December 31, 1946, and proposed annual accrual rates. The company's allocation of the reserve would relate only to busses, various types of streetcars, and buildings and structures: all other depreciable property would be grouped together. Separate accrual rates were proposed for each of the depreciable primary road and equipment accounts prescribed by Order No. 3087, Sept 23, 1946.

[1, 2] The Commission's staff has also devoted considerable time and study to this matter, particularly since the reclassification of the property of the company in accordance with the primary accounts prescribed by Order No. 3087. This study, with the exception of the accounts relating to track facilities, involved an allocation of the reserve by the primary accounts prescribed by Order No. 3087 on the basis of the estimated reserve requirement as of that date. Accrual rates, consistent with the reserve requirement study, were also developed. These accrual rates individually differed somewhat from those proposed by the company but overall they would provide an annual accrual closely approximating the accrual provided by application of the rates proposed by the company. The company's rates applied to depreciable property at December 31, 1945, produced a composite rate of 4.86 per

cent whereas the rates developed by the staff and applied to the same base produced a composite rate of 4.88 per cent. These rates are in practical accord with the composite rate of 4.9 per cent prescribed by § 5 of Order No. 2935 effective July 18, 1945, 61 PUR (NS) 1. Order No. 2935 also provided for an additional accrual for depreciation in the flat amount of $300,000 by reason of the extraordinary wear and tear resulting from wartime conditions. From the data now before the Commission, it appears that this additive to more-or-less normal accruals can now be dispensed with. It further appears that the composite rate of 4.9 per cent applied to the cost of depreciable property will provide a reasonable and adequate accrual for depreciation under present conditions.

On the question of segregating the reserve and accruals thereto by classes of property, the Commission is of the opinion that this matter should be the subject of continuing study for the time being. The data developed thus far plus the experience that will be gained in the next two or three years will provide a better basis for the solution of this problem than the data now at hand. Therefore,

It is *ordered:*

Section 1. Effective January 1, 1947, and until further order of the Commission in this proceeding provision for depreciation shall be made at the composite annual rate of 4.9 per cent of the original cost of depreciable property included in Road and Equipment Account 401.1.

Section 2. That § 5 of Order No. 2935, *supra,* be and it is hereby rescinded.

Section 3. That the investigation ordered by Paragraph "d" of § 1 of Order No. 2913 be continued until further order of the Commission.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Milwaukee Gas Light Company

2-U-2178

January 20, 1947

PROPOSAL *of gas company to limit acceptance of additional space-heating customers; proposal approved. For earlier Commission decision relating to gas service curtailment during emergency, see (1946) 66 PUR(NS) 117.*

Service, § 146 — Limitations upon service — Gas space heating.

A gas company was authorized to adopt a rule limiting the acceptance of space-heating customers and denying service for the heating of buildings under construction, where, in the absence of such restriction, the company

would not have sufficient capacity available in the next heating season to meet peak-day demands.

By the COMMISSION: Under date of January 20, 1947, the Commission received a petition from Milwaukee Gas Light Company requesting that Rule A of the Commission's order dated November 19, 1946, 66 PUR (NS) 117, in the above docket, be withdrawn in so far as it affects Milwaukee Gas Light Company, and there be substituted therefor the following proposed rule:

"Rule A of the Public Service Commission of Wisconsin's order dated November 19, 1946 (cited above), is hereby withdrawn as it affects Milwaukee Gas Light Company. No applications for space-heating service of any nature shall be accepted by Milwaukee Gas Light Company on and after ....., except that space-heating service will be furnished to customers qualifying under the rules provided in the Commission's order of November 19, 1946, provided construction of the premises to be heated had been started and contracts for heating equipment to be installed in such premises had been executed prior to the above date. To be accepted, any application made pursuant to the above must be filed with the company within thirty days of the above date.

"No gas will be furnished by Milwaukee Gas Light Company under any circumstances for the heating of buildings under construction."

In support of its request, Milwaukee Gas Light Company submitted data and exhibits attached to its petition indicating that the demand for space-heating service had increased considerably beyond that which had been expected prior to the issuance of the Commission's November 19, 1946, order, *supra*. From June 1, 1946, to December 31, 1946, the number of space-heating customers served by Milwaukee Gas Light Company increased from 5,800 to 8,499. As of December 31, 1946, there were in addition 1,018 applications for space-heating service, and from January 1st to January 14th, 134 additional applications were taken. All of these applications qualified under the provisions of the rules in effect prior to this date. It also appears that there are a number of homes under construction for which provisions are being made for gas heat even though applications therefor have not yet been filed with the company. Without further restriction of space-heating service, it is estimated that by December 31, 1947, the number of space-heating customers on the company's lines will total approximately 13,100.

The data and exhibits also show that the company has not realized the anticipated increase in production capacity which it expected. The reasons for this failure to increase production capacity are (1) to date the company has failed to receive all of the 19 liquefied petroleum gas storage tanks which it had ordered and for which authorization was obtained from the Commission's order in Docket CA 2382 dated September 13, 1946, 66 PUR(NS) 19. At the present time only 11 of these tanks are in service having a capacity of 320,000 gallons instead of the con-

templated capacity of 520,000 gallons in 19 tanks, and (2) the failure to receive liquefied petroleum gas in the quantities necessary to maintain storage in the tanks and at the same time meet the peak demands required during periods of cold weather. Since December 1, 1946, and up to January 16, 1947, the amount of liquefied petroleum gas in stock (liquid) had decreased from 229,337 gallons to 139,229 gallons. The company has been unable to secure any commitments from suppliers of liquefied petroleum gas to furnish more than 10,000 gallons per day and recently deliveries have averaged less than that amount. Furthermore, it appears that this situation may persist for some time since the failure of delivery is due primarily to the diversion of pressure type railroad tank cars from the transportation of liquefied petroleum gas to the transportation of other products by reason, in part, of governmental restrictions.

From the facts submitted, it appears that if applications for space heating are not restricted immediately, the Milwaukee Gas Light Company will not have sufficient capacity available in the 1947–1948 heating season to meet the peak-day demands for service. The proposed rule will restrict the acceptance of further applications for space-heating service. However, we believe that in one respect the rule should be amended so as to provide that "No gas will be furnished by Milwaukee Gas Light Company under any circumstances for the heating of buildings *while* under construction."

The order herein is made without hearing pursuant to the provisions in the order of November 19, 1946, *supra,* providing for modifications thereof.

The Commission finds:

That an emergency exists with respect to the ability of Milwaukee Gas Light Company to meet the demands imposed upon it for gas service, and that the rule proposed by the company and as modified herein is reasonable and necessary.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Consol. Gas, Elec. Lt. & Pwr. Plans $50,000,000 Expansion

CONSOLIDATED GAS, ELECTRIC LIGHT & POWER Co. of Baltimore plans to spend approximately $50,000,000 in the next three years for construction and equipment.

Among the projects proposed are the addition of a 60,000-kw. unit to the Riverside power plant to boost its capacity to 180,000 kw. and the addition of two 60,000-kw. units to the Westport plant which now has a capacity of 182,500 kw. Six substations are to be erected and five are to be enlarged.

Dictograph Offers Electronic Intercommunication System

DICTOGRAPH PRODUCTS, INC., offers a new low-cost Electronic Intercommunication which has been designed and priced to provide complete intercommunication service for small businesses.

The system features a beautifully designed master station which has a 10-call capacity, including other masters or substations. An annunciator, showing incoming calls, as well as the two-call paging switch, are optional.

Advantages claimed for the Dictograph Electronic Intercommunication system are: Instant voice-to-voice contact between any desired points for any type of business; outstanding clarity through "voice-mirror" reproduction; extremely low upkeep.

For circular describing the Dictograph Electronic Intercommunication write to the manufacturer, 580 Fifth avenue, New York 19, New York.

Honeywell Announces New Mercury Switch

A NEW mercury switch, which is claimed to be capable of handling almost any switching job, has been developed by the Minneapolis-Honeywell Regulator Company.

Less than an inch and a half long, the new switch is rated at one ampere for 115 volts, A.C. The new device, one of several hundred different models made by Honeywell, is actuated by a snap tilt of 12 degrees using a single pole, single throw action.

Production on the new switch has been started and large-scale deliveries scheduled for later in the spring.

It is identified by the model number AS-408D.

Line of Network Protectors Described in G-E Bulletin

GEA-2017C, a 39-page, two-color bulletin presents a detailed account of the construction, applications, and maintenance requirements of the General Electric network protectors for a-c secondary systems. Fifty-five photographs, one-line diagrams, and data charts illustrate the uses, accessibility, and special features of the network protectors. A section on selection of fuses for the equipment contains curves of time-current characteristics.

The bulletin describing the heavy duty automatic network protectors is now available at the General Electric Company, Schenectady, New York.

$35,500,000 Program Planned By Northern States Power

CONSTRUCTION improvements totaling $35,500,000 have been authorized by the board of directors of Northern States Power Company. Actual expenditures for 1947 will amount to approximately $18,000,000.

Included in the authorization are four generating units of 12,500-kw., a 5,000-kw. unit, a 60,000-kw. unit, and 30,000-kw. in Diesel generating units to be located at strategic points on the system. This totals 145,000-kw. or about 207,000 horsepower of additional generating capacity.

Plans Larger Unit

BECAUSE the demands for electricity in greater Dallas have grown much faster than was anticipated, and estimates of future demands have been raised considerably, Dallas Power & Light Company will install a 40,000 kilowatt turbo-generator at Mountain Creek plant, instead of a 30,000 kw. unit, as was originally planned.

The 40,000 kw. unit, with auxiliaries and other equipment and the addition to the plant building, is estimated to cost $5,000,000.

The unit will increase the generating capacity of Mountain Creek plant to 103,500 kw. and will bring the total generating capacity of the two plants up to 188,000 kw.

A-C Bulletin

A REVISED bulletin on Allis-Chalmers oil circuit breakers, Type DZ-40B, has been announced by the company. According to the four-page bulletin, this breaker, of moderate

capacity for indoor service, is of the oil-tight, enclosed mechanism type with all three poles in one tank, and is capable of wide application to station, substation, and industrial service.

In addition to describing the construction of these breakers and lising their extra protection features, the bulletin advises that they are available for electrical and manual remote control operation, lists accessories and provides a table of maximum current, voltage, and interrupting capacity ratings together with a reference chart of general dimensions.

Copies of the bulletin, 71B6179B, are available on request from the Allis-Chalmers Mfg. Company, Milwaukee 1, Wisconsin.

Oklahoma Gas & Elec. to Build $9,000,000 Plant

OKLAHOMA GAS & ELECTRIC COMPANY will build a 150,000-kw. plant at a cost of approximately $9,000,000, according to George A. Davis, president.

The plant will be built in three sections with the first 50,000-kw. turbo-generator expected to be in operation in 1950. The other two will be added as required.

Initial cost of the plant and first installation will be around $6,000,000 with additions accounting for another $3,000,000.

The company recently announced construction of another plant at Ponca City.

Philadelphia Electric Plans To Spend $200,000,000

THE PHILADELPHIA ELECTRIC COMPANY contemplates a $200,000,000 expansion program, it was announced recently by Horace P. Liversidge, president.

The company's expansion program calls for a net addition of 673,000 kilowatts in generating capacity in the next five years, an increase of 54 per cent over the capacity at the end of 1946. Two major projects are the $54,000,000 Southwark generating station, one unit of which is in the preliminary stages of operation, and the $20,000,000 addition of two generators and auxiliary equipment at the Barbadoes plant, near Norristown, Mr. Liversidge said.

New Reliance Motor Bulletins

TWO recent bulletins on Reliance "Series C" induction motors have been published by The Reliance Electric and Engineering Company, Cleveland.

Bulletin C-118 covers protected (open type) frame sizes 203 to 326, with horsepower ratings from ½ to 20 horsepower, 600 to 3600 rpm.

Totally-enclosed, fan-cooled "Series C" motors are described in Bulletin C-125, which deals with squirrel-cage frame sizes 224 to 326, for two and three phase a.c. circuits.

Both booklets are available on request to the company, Reliance Electric and Engineering Company, 1706 Ivanhoe road, Cleveland, 10, Ohio.

Rota-Swing Dead Front Safety Switch Offered by Pelham

AFTER testing its reliability in numerous installations, Pelham Electric Manufacturing Corp., Erie, Pennsylvania, is now offering the new "Rota-Swing" safety switch.

This switch gives the operators positive protection, because the act of opening the door to reach the fuses automatically opens the circuit. The exposed parts can carry no current.

The Pelham "Rota-Swing" mechanism has a new simplicity of design and no springs. Just a sturdy rotating handle that moves the knife blades to Off or On position—while the switch is disconnected, which assures absolute safety. Steel guides hold the blades in positive accurate alignment.

The new switch is especially suitable for heavy-duty power and light applications, and can be furnished for switchboards or panels of any size capacity: 0 to 600 amps.; 250 V. D.C. to 600 V.A.C.; 2, 3, or 4 pole.

Each unit of a Rota-Swing equipped switchboard may be furnished with fuse gaps for any desired amperage or voltage within a wide range. Changes in fuse gaps are easily made at any time after installation. The mounting plates, steel compartments, and bus bars are completely standardized, so that provision can be made in any switchboard or panel for future expansion.

$200,000,000 Program Planned By Commonwealth Edison

THE COMMONWEALTH EDISON COMPANY is planning the biggest expansion program in its history, according to Charles Y. Freeman, chairman.

The company now has under construction, or on order, generating capacity to total 364,000 kilowatts and is making studies for the location and installation of an additional unit of 150,000 kilowatts. This program will expand generating capacity 15 per cent.

Construction costs over the next three years are expected to total $200,000,000. The 1947 expenditures may reach $62,000,000, as compared with $37,383,015 in 1946 and $20,228,752 in 1945.

Portland Gas & Coke Proposes $3,241,000 Construction

PLANS for a $3,241,000 construction program in 1947 to expand gas production and distribution facilities are being made by Portland Gas & Coke Company, Portland, Oregon.

In the past five years the company has spent more than $5,800,000 on additions and betterments to its property, and the 1947 program will boost the total to $9,000,000.

Brown Named Sales Manager

FRED C. HALL, vice president of The American Coach & Body Company, Oakland, California, announces the appointment of Charles M. Brown as sales manager.

MSA Issues Bulletin on Air Line Respirators

COMPLETE data on the new MSA Air Line Respirators and auxiliary parts and equipment made by Mine Safety Appliances Company, are contained in a 4-page bulletin No. CS-23.

Copies of the bulletin may be had by writing to the manufacturer—Mine Safety Appliances Company, Braddock, Thomas, and Meade streets, Pittsburgh 8, Pennsylvania.

Folder on Roof Maintenance

ROOF maintenance for the plant handy-man is discussed in a large, newly-published folder. Titled "Is Your Roof a Fair-Weather Friend," this maintenance guide points out that extra years of service can be gotten from any type of roof and explains how to stop leaks, renew dried-out roof surfaces, repair flashings and gutters, etc.

The folder illustrates the application of all materials and also shows typical problems and their solutions. A free copy may be obtained by addressing the Stonhard Company, 403 North Broad street, Philadelphia 8, Pennsylvania.

To Increase Plant's Capacity

THE KANSAS POWER AND LIGHT COMPANY has completed plans for a $3,000,000 addition to the Tecumseh power station. This addition will include the construction of two buildings and the addition of facilities to house a 30,000-kw. steam-turbo generator and boiler.

A-C Appointment

I. C. MATHESON, formerly of the Allis-Chalmers Tampa district office, has been transferred to the company's Los Angeles office, where he will specialize in the handling of utility business for the company in that area.

L. M. Morley Is Elected Honeywell Vice President

L. M. MORLEY has been elected a vice president of the Minneapolis-Honeywell Regulator Company, Harold W. Sweatt, president, announced recently.

Mr. Morley, vice president in charge of sales for the Brown Instrument Company, a wholly-owned Honeywell subsidiary at Philadelphia, will continue to supervise sales of the industrial control devices made by the Brown division. His newest promotion thus makes him an officer of the parent company as well as its subsidiary, Mr. Sweatt said.

IBM Appointment

INTERNATIONAL BUSINESS MACHINES CORPORATION recently announced the appointment of Charles E. Love as IBM general sales manager. He was previously sales manager for its western district.

Construction Loans Announced

CONSTRUCTION loans—chiefly for distribution lines, system improvements or new or additional generating capacity—recently were made to the following enterprises by the Rural Electrification Administration:

Southwest Arkansas Electric Coöperative Corporation, Texarkana, Ark., $365,000.

Riceland Electric Coöperative, Inc., Stuttgart, Ark., $10,000.

Wright County Rural Electric Coöperative, Clarion, Iowa, $86,000.

Woodbury County Rural Electric Coöperative Association, Moville, Iowa, $380,000.

Caney Valley Electric Coöperative Association, Inc., Cedar Vale, Kans., $280,000.

Steele-Waseca Coöperative Electric, Owatonna, Minn., $25,000.

Rural Coöperative Power Association, Maple Lake, Minn., $1,890,000.

Adams - Marquette Electric Coöperative, Adams, Wis., $20,000.

Hart County Electric Membership Corporation, Hartwell, Ga., $50,000.

Altamaha Electric Membership Corporation, Lyons, Ga., $50,000.

C. M. S. Electric Coöperative, Inc., Meade, Kans., $357,000.

Guernsey-Muskingum Electric Coöperative, Inc., New Concord, Ohio, $200,000.

Blachly-Lane County Coöperative Association, Blachly, Ore., $215,000.

Atchison-Holt Electric Coöperative, Rockport, Mo., $307,000.

Ravalli County Electric Cöoperative, Inc., Corvallis, Mont., $73,000.

Central Electric Coöperative, Inc., Redmond, Ore., $75,000.

Houston County Electric Coöperative, Inc., Crockett, Tex., $270,000.

Taylor Electric Coöperative, Inc., Merkel, Tex., $330,000.

Lyon County Electric Coöperative, Inc., Emporia, Kans., $372,000.

Southern Nebraska Rural Public District of Grand Island, Neb., $385,000.

Edgecombe-Martin County Electric Membership Corporation, Tarboro, N. C., $50,000.

Union Electric Membership Corporation, Monroe, N. C., $50,000.

Escalante Valley Electric Association, Inc., Modena, Utah, $115,000.

Escambia River Electric Coöperative, Inc., Jay, Fla., $500,000.

Lewis County Rural Electric Coöperative Association, Monticello, Mo., $410,000.

Tri-County Electric Coöperative, Inc., St. Matthews, S. C., $225,000.

Coahoma Electric Power Association, Clarksdale, Miss., $315,000.

Tri-County Electric Coöperative, Inc., Azle, Tex., $370,000.

Rayle Electric Membership Corporation, Washington, Ga., $210,000.

Douglas County Electric Membership Corporation, Douglasville, Ga., $130,000.

Central New Mexico Electric Coöperative, Inc., Corona, N. M., $707,500.

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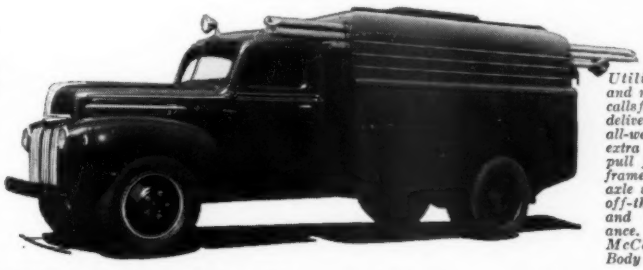

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